

## WISCONSIN 1997-98 STATUTES

### 66.035 Code of Ordinances.

The governing body of any city, village, town, or county may authorize the preparation of a code, or part thereof, of general ordinances of such municipality. Such code, or part thereof, may be enacted by an ordinance referring thereto and may be published in book or pamphlet form, and such publication shall be sufficient even though the ordinances contained therein were not published in accordance with ss. 59.14, 60.80, 61.50 (1), and 62.11 (4)(a). A copy of such code, or part thereof, shall be permanently on file and open to public inspection in the office of the clerk after its enactment and for a period of not less than 2 weeks before its enactment. A code enacted by a county in accordance with the procedure provided in this section prior to April 30, 1965, shall be valid notwithstanding failure to comply with s. 59.14.

History: 1983 a. 532 s. 36; 1993 a. 246; 1995 a. 201.

Codification and publication of ordinances discussed. 70 Atty. Gen. 124.



# **ZONING ORDINANCE**

## **TOWN OF EATON**

**Brown County Planning Commission**

**Adopted March 5, 1990  
Amended December 1, 2003  
DATCP Submittal Date: 7/24/2014  
Amended 10/29/2014**



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**ARTICLE I: TITLE AND AUTHORITY**

A. TITLE

This ordinance shall be known, cited, and referred to as THE TOWN OF EATON ZONING ORDINANCE, BROWN COUNTY, WISCONSIN.

B. AUTHORITY

The Town of Eaton, pursuant to Section 60.10(2)(c), 60.62, 61.35, 62.23, and 66.1001 of the Wisconsin Statutes, hereby enacts a zoning ordinance to read as follows:





## **ARTICLE II: INTENT, PURPOSE, AND SEVERABILITY**

### **A. INTENT**

This ordinance is intended to promote the orderly development of the community.

### **B. INTERPRETATION**

The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity, and general welfare of the Town of Eaton, Brown County, Wisconsin.

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, or agreements between the parties or with any rules, regulations, or permits previously adopted or issued pursuant to law provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations, or permits or by easements, covenants, or agreements, the provisions of this ordinance shall govern.

### **C. SEVERABILITY**

If a court of competent jurisdiction adjudges any section, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

### **D. PURPOSE**

The Zoning Ordinance of the Town of Eaton, Brown County, Wisconsin, is adopted for the following purposes: 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 maintain the aesthetic appearances and scenic values of the Town; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to foster a more rational pattern of relationship between residential, business, commercial, and manufacturing uses for the mutual benefit of all.

### **E. DISTRICTS**

1. For the purpose of this ordinance, the Town of Eaton, Brown County, Wisconsin, is hereby divided into five districts, as follows:

Residential District (R)  
Agriculture District (A)  
Agriculture - Farmland Preservation District (AG-FP)  
Community Business District (B-1)  
Industrial District (I-1)  
Planned Residential Development District (PDD) Overlay

2. The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Farmland Preservation Zoning Map," Town of Eaton, Brown County, Wisconsin, dated \_October 30, 2014, which map accompanies and is made a part of this ordinance. All notations and references shown on the district map are as much a part of this ordinance as though specifically described herein.
  - a. Unless otherwise indicated on the district map, the district boundary lines follow the center lines of streets or highways, alleys, and railroads, or section, quarter-section, quarter-section lines, and lot lines.
  - b. Where a district boundary line is indicated on the district map as being approximately parallel or at right angles to one of the above lines, the two lines shall be construed to be parallel or at right angles to one another.
  - c. Where a dimension appears adjacent to a district boundary line with no explanatory note, such dimension shall be construed to be the length of such district boundary line measured to the center line of the street or highway, alley, or railroad, if such district boundary line intersects a street or highway, alley, or railroad.
  - d. Where the above rules do not apply, the location of the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.

#### F. EXEMPTED USES

The following uses are exempted by this ordinance and permitted in any zone 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, provided that the installation shall conform to the Federal Communication Commission and Federal Aviation Agency rules; and radio and television transmission and booster towers are subject to the regulations prescribed in the zoning districts.

## **ARTICLE III: DEFINITIONS**

### **A. GENERAL**

For the purpose of this ordinance, words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural of the singular; and masculine gender includes feminine and neuter.

The word “shall” is mandatory and not discretionary.

The word “may” is permissive.

The word “lot” shall include the words “place,” “parcel,” and “plats”; the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”

All “measured distances” shall be to the nearest “integral foot.” If a fraction is one-half (1/2) foot or less, the next “integral foot” below shall be taken.

Any words not herein defined shall be construed as defined in other respective state, county, and town codes.

### **B. WORDS DEFINED**

Certain words and terms in this ordinance are to be interpreted as defined herein:

1. Accessory Building or Use. A building or use which is:
  - a. Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this ordinance.
  - b. Clearly incidental to, subordinate in purpose to, and serves the principal use.
  - c. Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.
2. Adult Bookstore. An establishment which has a portion of its stock in trade, books, magazines, periodicals, movie films, devices, slides, or other photographic or written reproductions and which excludes minors by virtue of age.
3. Advertising Device. Any advertising sign, billboard, statuary, or poster panel which directs attention to a business, commodity, service, or

entertainment not exclusively related to the premises where such sign is located or to which it is affixed, but does not include those advertising signs, billboards, or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

4. Agriculture. The science and practice of the cultivation of the soil.
5. Airport. Any area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use 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.
6. Alley. A public or private right-of-way primarily designed to serve as secondary access to abutting properties.
7. Artificial Lake. A man-made body of water utilized for recreational or conservation purposes.
8. Auto Wrecking Yard. Any premises on which more than one (1) unlicensed motor vehicle or parts thereof are stored in the open.
9. Basement. That portion of any structure located partly underground and having more than one-half (1/2) of its height below the finished lot grade.
10. Block. A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways or municipal boundary lines.
11. Boarding House (Lodging House). A building or premises, other than a hotel, containing lodging rooms accommodating for compensation four (4) or more persons not of the keeper's family. Lodging may be provided with or without meals.
12. Building. 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.
13. Building, Accessory. A subordinate building or portion of a principal building, the use of which is incidental and customary to that of the principal building, where an accessory building shall comply in all respects with the requirements of this ordinance applicable to the principal building.

14. Building, Attached. One which is joined to another dwelling at one or more sides by a party wall or walls.
15. Building, Detached. One which is entirely surrounded by open space on the same lot.
16. Building Height. The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of a ceiling in the case of a flat roof, to the deck-line of a mansard roof, and to the average height between the eaves and the ridge of a gable, hip, or gambrel roof.
17. Building Setback Line. A line located a stated distance from and parallel with a lot line or street right-of-way, including the nearest point to which a lot line or center line of a building may be erected.
18. Building, Temporary. Any building not designed to be permanently located in the place where it is or where it is intended to be placed or affixed. Manufactured homes used as residences shall not be classified as temporary buildings. They are further defined in definition Number 75.
19. Campground. A tract or parcel of land on which space is provided for camping. Includes day and overnight camping.
20. Canopy. (Marquee) A roof-like structure projecting from a wall and supported in whole or in part by vertical supports from the ground and erected primarily to provide shelter from the weather.
21. Capacity in Persons of an Establishment or Use. The maximum number of persons that can avail themselves of the services (or goods) of such establishment at any one time with reasonable safety and comfort, as determined by the building code or as may be determined by the zoning administrator.
22. Certified Survey Map (CSM). A map of not more than four (4) parcels prepared in accordance with Chapter 236, Wisconsin Statutes, and Brown County Subdivision Ordinance (Chapter 21 of the Brown County Code of Ordinances).
23. Clinic, Medical, or Dental. An organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include inpatient care.
24. Club. An association of persons for some common purpose but not including groups organized primarily to render a service, which is

customarily carried on as a business. All organizations shall be recognized clubs or fraternities.

25. Commercial Feedlots. An agricultural enterprise where livestock is purchased and raised and then sold to a buyer, feedlot, or slaughter house.
26. Community-based Residential Facility. A place where three (3) or more unrelated adults reside and in which care, treatment, or services above the level of room and board, but not including nursing care, are provided to persons residing in the facility as a primary function of the facility and licensed by the Department of Health and Social Services under Section 50.01, Wisconsin Statutes.
27. Comprehensive Plan. The Town of Eaton Comprehensive Plan.
28. Corner Side. A yard extending along a side lot line from front yard to rear yard when said side lot line is parallel with a street right-of-way line.
29. Conditional Use. Uses of a special nature as to make impractical their predetermination as a principal use in a respective zone district.
30. Conservation Designed Subdivision. A subdivision or residential development that is characterized by compact lots that are surrounded or interspersed with preserved common space where the natural features of the land are preserved to the greatest extent possible.
31. Daycare Center, Group. A licensed establishment for the care and supervision of nine (9) or more children under seven (7) years of age for more than four (4) and less than twenty-four (24) hours a day for more than ten (10) days a month.
32. Daycare Home, Family. A licensed establishment for the care and supervision of one (1) to eight (8) children under seven (7) years of age for more than four (4) and less than twenty-four (24) hours a day for more than ten (10) days a month.
33. Drive-in Business. An establishment with street access, which provides no interior seating or service, or an establishment which allows for interior seating or service, but the majority of its business is conducted in the following manner:
  - a. By means of a service window.
  - b. In-car service.
  - c. Restaurant or confectionaries with carryout counter.

34. Dwelling. A building, or portion thereof, excluding a manufactured home, hotel, motel, boarding houses, and trailers designed or used exclusively for residential occupancy.
35. Dwelling unit. One (1) or more rooms which are arranged, designed, or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each “dwelling unit.”
36. Dwelling, Single-Family. A building designed for and occupied exclusively by one (1) family.
37. Dwelling, Two-Family. A building designed for and occupied exclusively by two (2) families.
38. Dwelling, Multiple-Family. A building, or portion thereof, containing three (3) or more dwelling units.
39. Employee or Staff Member, Fulltime. A person who works fulltime at the building or use regulated. For computation of the sum of employees at a use scheduling more than one shift, the sum shall be based on the maximum number of employees at any one shift working at least thirty (30) hours per week.
40. Establishment Business. A place of business carrying out 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.
41. Family. One (1) or more persons living together in one (1) dwelling unit as a single housekeeping entity, provided that a family shall consist of not more than five (5) such persons when not related by marriage of birth.
42. Farm. Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products.
43. Farm Pond. A body of water utilized for the farm operation.
44. Floor Area. (for determining floor area ratio) The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The “floor area” of a building shall include basement floor area, elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), penthouse, attic space having headroom of seven (7) feet ten (10) inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. However,

any space devoted to off-street parking or loading shall not be included in "floor area."

The "floor area" of structures devoted to bulk storage of materials - including, but not limited to, grain elevators and petroleum storage tanks - shall be determined on the basis of height in feet, i.e., ten (10) feet in height shall equal one (1) floor.

45. Floor Area. (for determining off-street parking and loading requirements) The sum of the gross horizontal areas of several floors of the building or portion thereof devoted to such use, including accessory storage areas, located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities to the production or processing of goods or to business or professional offices. However, "floor area" for the purposes of measurement for off-street parking spaces shall not include floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.
46. Frontage. The length of all the property fronting on one (1) side of a street between two (2) nearest intersection streets measured along the line of the street or, if dead-ended, all property abutting on one (1) side between an intersecting street and the dead-end of the street.
47. Frontage, Zoning Lot. The length of all the property of such zoning lot fronting on a street and measured between side lot lines.
48. Fur Farm. Agricultural operation where the major income is derived from the selling or sale of fur bearing animals and/or pelts.
49. Garage, Private. An accessory to the main building which provides for the storage of motor vehicles and in which no occupation, business, or service for profit is carried on.
50. Garage, Public, and Storage. Any building or premises, other than a private garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold, or stored.
51. Grade. The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
52. Gross Floor Area. The sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior faces of



exterior walls or from the center line of party walls separating two (2) buildings.

53. Group Home. Community living arrangements for the care and maintenance of five (5) to eight (8) children under eighteen (18) years of age, which are licensed child welfare agencies, as set forth in Wisconsin State Statutes 48.602(5).
54. Hard Surfaced. A driveway or parking lot surfaced with concrete, bituminous paving, or crushed stone.
55. Health and Medical Institutions. Institutions or organizations, which provide specialized inpatient or outpatient medical and dental care.
56. Hedge. A dense row of shrubs, etc. forming a boundary, fence, or barrier.
57. Hobby Farm. Agricultural operations where the actual agricultural use of the property encompasses greater than 50% of the total land area of the parcel.
58. Home Occupation. An accessory use of a dwelling carried on by a member or members of the immediate family residing on the premises. The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists. No storage or display of materials, goods, supplies, or equipment related to the operation shall be visible from the outside of any structure located on the premises.

There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one (1) sign, non-illuminated, and not exceeding two (2) square feet in area.

59. Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with or without cooking facilities in any individual room or apartment.
60. Incompatible Use. A use or service which is unsuitable for direct association with certain other uses because it is contradictory, incongruous, or discordant.

61. Industrial Park. A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.
62. Junk (or Salvage) Yard. An 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” or “salvage” yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.
63. Kennels, Outdoor. A lot or building in which three (3) or more dogs or four (4) or more cats or other animals at least two (2) months of age are kept commercially for board and/or propagation, training or sales, or other uses, all of which are conducted on the property itself.
64. Kennels, Indoor. A building in which three (3) or more dogs or four (4) or more cats or other animals at least two (2) months of age are kept commercially for board and/or propagation, training or sales, or other uses, all of which are conducted within the building itself.
65. Less Restricted. The use of land or buildings first permitted in a certain district is less restricted than other uses first permitted in districts appearing earlier in the numerical order in which such districts are numbered in this ordinance.
66. Lot. A parcel of land having a width and depth sufficient to provide the space necessary for one (1) principal building and its accessory building together with the open spaces required by this ordinance and abutting on a public street.
67. Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds of Brown County or a parcel of land, the deed to which was recorded in the Office of said Register of Deeds prior to the adoption of this ordinance, and certified survey maps approved and recorded in the Register of Deed’s Office of Brown County.
68. Lot, Corner. A lot located at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.
69. Lot, Depth of. The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

70. Lot, Area, Gross. The area of a horizontal plane bounded by the front, side, and rear lot lines but not including any area occupied by the waters of a duly recorded lake or river and/or public right-of-way.
71. Lot, Grade. The average of the finished lot elevation upon completion of construction and landscaping between the street right-of-way line and a perpendicular point on the front yard setback line.
72. Lot, Interior. A lot other than a corner or reversed corner lot.
73. Lot Line, Front. That boundary of a lot which is along an existing or dedicated public street or where no public street exists along a public way.
74. Lot Line, Rear. That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line.
75. Lot Line, Side. Any boundary of a lot which is not a front lot line or a rear lot line.
76. Lot, Reversed Corner. A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
77. Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a “through lot,” both street lines shall be deemed front lot lines.
78. Lot Width. The horizontal distance between the side lot lines of a lot measured at the narrowest width within the first thirty (30) feet of lot depth immediately in back of the front yard setback line.
79. Manufactured Home – Class I. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air condition, and electrical systems contained in it and is certified and labeled as a manufactured home under 42 U.S.C. Sections 5401 to 5426. For purposes of this ordinance, a manufactured home Class I shall be considered a single-family or two-family home when meeting the required building standards for residential dwellings within this ordinance.
80. Manufactured Home – Class II. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in it and built prior to the

enactment of Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976.

81. Manufactured Home Community. A contiguous parcel of land containing two (2) or more manufactured homes.
82. Motel. An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space located on a single zoning lot and designed for use by transient automobile tourists. A "motel" furnishes customary hotel services, such as maid service and laundering of linens, telephone and secretarial or desk service, and the use and upkeep of furniture. In a "motel," less than fifty (50) percent of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists.
83. Motor Vehicles. A self-propelled device used or intended to be used for the transportation of freight or passengers upon a street or highway.
84. Nonconforming Building. A building which is used in a manner that does not conform to the regulations of the use district in which the building is located.
85. Nonconforming Use. A use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to the use restrictions in the current ordinance.
86. Parking Space. A graded and surfaced area of not less than two hundred (200) square feet in area either enclosed or open for the parking of a motor vehicle and having adequate ingress and egress to a public street or alley, exclusive of passageways, driveways, or other means of circulation or access.
87. Planned Development. 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 intended to permit diversification and variation in the relationship of uses and structures and open space for developments conceived and implemented as comprehensive and unified projects.
88. Professional Office (except Healthcare). The office of a member of recognized profession, including the offices of ministers, architects, professional engineers, lawyers, and such other similar professional occupations, including the office of a charitable organization and including also an insurance of financial institution that conducts its activities principally by mail.

89. Professional Office, Healthcare. The office of a member of a recognized healthcare professional licensed by Wisconsin State Statute, Chapters 441, 446 to 449.
90. Recreational Vehicle. A vehicle primarily used for leisure activities, including, but not limited to, trailers, boats with or without trailers, all-terrain vehicles, and snowmobiles. For the purpose of this code, recreational vehicles do not include four-wheel-drive cars or trucks and motorcycles.
91. Retail. Sale of commodities and services directly to customers when such commodities and services are used or consumed by the customer and not purchased primarily for purpose of resale.
92. Restaurant, Drive-In. A restaurant with one of the following characteristics:
- a. No interior seating.
  - b. Interior seating, with in-car service.
93. Right-of-Way.
- a. A strip of land occupied or intended to be occupied for a special use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
  - b. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lot or parcels adjoining such right-of-way and not included within the dimension or areas of such lots or parcels.
94. Roadside Stand. A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than three hundred (300) square feet in ground area and limited to ten (10) feet maximum in height.
95. Sanitary Landfill. Disposal of refuse on land without creating a nuisance or hazard to public health or safety by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation or at more frequent intervals.

96. Satellite Dish Antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbital based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs, and satellite microwave antennas.
97. Setback. The minimum horizontal distance between the line of a building or structure and the front property line.
98. Setback Area. The minimum horizontal area between the front, side, and/or rear line of the building or use, including porches and the lot lines or street right-of-way lines.
99. Setback, Corner Side Yard. The minimum horizontal distance between the side line of the building or use that runs perpendicular to a fronting street and the side right-of-way line perpendicular to the fronting street.
100. Setback, Front Yard. The minimum horizontal distance between the front line of the building or use and the street right-of-way line.
101. Setback Lines. Lines established adjacent to lot lines or street right-of-way lines for the purpose of defining limits within which any or certain buildings, structures, or uses may not be constructed, maintained, or carried on, except as regulated in this ordinance.
102. Setback, Rear Yard. The minimum horizontal distance between the back line of the building or use and the rear lot lines.
103. Setback, Side Yard. The minimum horizontal distance between the side line of the building or use and the side lot lines, unless the side line of the building or use is parallel to a street, whereas it shall be a corner side yard setback.
104. Sign. A name, identification, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person institution, organization, or business. However, a "sign" shall not include any display of official court or public office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the content shall so indicate.

105. Sign, Advertising. A sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.
106. Sign, Business. A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.
107. Slaughterhouse. A building or portion thereof used in the conducting of a business enterprise where animals are butchered or where animals or parts thereof are processed, cut, or altered.
108. Stock Farm. An agricultural operation, usually non-dairying in nature, where livestock is raised to the required age or weight for slaughterhouse purposes or for sale to commercial feedlots.
109. Story. That part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is five (5) feet or more above the level from which the height of the building is measured or if it is used for business purposes or if it contains any dwelling units other than one (1) dwelling unit for the caretaker of the premises.
110. Street. A public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, land, throughway, or however otherwise designated but does not include driveways to buildings.
111. Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.
112. Structural Alteration. Any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.
113. Subdivision. Any land division where:
  - a. The act of division creates 5 or more parcels or building sites of 10 acres each or less in area (40 acres each or less in area if located within the Brown County Sewer Service Area), or
  - b. Five or more parcels or building sites of 10 acres each or less in area (40 acres each or less in area if located within the Brown County Sewer Service Area) are created by successive divisions within a period of 5 years.

114. Town. The Town of Eaton.
115. Town Board. The governing body of the Town of Eaton.
116. Town Zoning Administrator. The administrator appointed by the Town Board to administer and enforce the provisions of the zoning ordinance.
117. Use, Principal. The main use of land or buildings as distinguished from a subordinate or accessory use. A “principal use” may be “permitted,” “conditional,” or “nonconforming.”
118. Use, Permitted. A use which may be lawfully established in a particular district or districts provided it conforms to all requirements, regulations, and standards of such district.
119. Use, Conditional. A use, either public or private, 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 of the particular location, such “conditional use” may or may not be granted, subject to the terms of this ordinance.
120. Variance. A departure from the terms of this chapter as applied to a specific building, structure, or parcel of land which the Board of Appeals may permit when the Board finds that a literal enforcement of the provisions of this section will result in practical difficulty or unnecessary hardship, owing to circumstances unique to the individual property on which the variance is sought, or a literal application of such regulation will affect a limitation on the use of the property which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety, and welfare. In no case shall a variance be granted to permit any use not permitted in a particular zone.
121. Yard. An open space on the same lot with a building or structure, unoccupied and unobstructed from the ground upward except for vegetation. A “yard” extends along a lot line and to a depth or width specified in the yard requirements for the zone the lot is located in.
122. Yard, Corner Side. A side yard which adjoins a public street.
123. Yard, Front. A yard extending along the full length of the front lot line between the side lot lines.



124. Yard, Interior Side. A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.
125. Yard, Rear. A yard extending along the full length of the rear lot line between the side lot lines.
126. Yard, Transitional. That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.
127. Zoning District. Divisions of the town, each area being accurately defined to boundaries and locations on the Official Zoning Map and in the zoning ordinance, for which the regulations and requirements governing use, lot, and bulk of buildings and premises are uniform.
128. Outdoor Storage Container. A metal container to be used as an outside storage apparatus previously used as a shipping container, truck trailer, or other similar use.
129. Parent Parcel. A continuous area of land described in a single description in a deed, separately owned or capable of being separately conveyed, that for the purpose of this ordinance shall always be the largest sized parcel in a situation where land divisions occur that separate off succeeding parcels.



## **ARTICLE IV: GENERAL PROVISIONS**

Except as specifically provided otherwise in this ordinance, the following regulations shall apply to all districts.

### **A. JURISDICTION**

The jurisdiction of this ordinance shall include all lands and waters within the Town of Eaton.

### **B. EXISTING ORDINANCE**

Restrictions or requirements with respect to buildings or land or both which appear in other ordinances of the Town of Eaton or are established by federal, state, or county laws and which are greater than those set forth herein shall take precedence over those herein. Otherwise, the provisions of the ordinance shall apply.

### **C. BUILDINGS AND USES**

1. No provision of this ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as nuisance under the appropriate laws of the State of Wisconsin.
2. No provision of this ordinance shall be construed to prohibit the customary and necessary construction, reconstruction, or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances thereto where reasonably necessary for the preservation of the public health, safety, convenience, and welfare.
3. The use of buildings hereafter erected, converted, enlarged, or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
4. No more than one (1) principal detached residential building shall be located on a lot of record or a zoning lot except in the case of planned unit residential developments or multifamily uses.
5. Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building or part thereof for which a building permit has been issued before the effective date of this ordinance and the construction of which shall have been started within six (6) months from the date of such permit.
6. Permitted, permitted accessory uses, and conditional uses are limited to the uses indicated for the respective zone district.

7. Every building hereafter erected on a lot or parcel of land created subsequent to the effective date of this ordinance shall provide a lot or parcel of land in accordance with the lot size requirements of the district within which it is located. In the residential-allowed districts, on a lot of record on the effective date of this ordinance, a single-family dwelling may be established regardless of the size of the lot provided all other requirements of this ordinance are complied with. However, where two (2) or more contiguous substandard recorded lots are in common ownership and are of such size as to constitute at least one (1) conforming "zoning lot," such lots or portions thereof shall be considered as being maintained in common ownership after the effective date of this ordinance for zoning purposes.
8. **Nonconforming Uses.**  
This ordinance does not prohibit the continued use of any building, premises, structure, or fixture for any trade or industry for which the building, premises, structure, or fixture is used when the ordinance takes effect. This ordinance does prohibit the alteration of, or addition to, any existing building, premises, structure, or fixture used to carry on an otherwise prohibited trade or industry within the district. If a use that does not conform to an ordinance adopted under this section is discontinued for a period of 12 months, any future use of the land, building, premises, structure, or fixture shall conform to the ordinance.
9. **Restoration of Damaged or Destroyed Legal Nonconforming Structures.**  
Certain nonconforming structures may be repaired or restored provided the subject nonconforming structure meets the provisions contained in Sections 60.61(5e) or (5m) Wis. Stats.
10. Accessory buildings located in the Residential District, which are not a part of the main building, shall not be more than twenty-five (25) feet high. Where an accessory building is part of the main building or is substantially attached thereto, the side yard and rear yard requirements for the main building shall be applied to the accessory building.
11. On reversed corner lots, all accessory buildings shall conform to the existing setback lines on both streets, and on the rear lot line, it shall conform to the side yard requirements of the zoning district.

No accessory building shall be erected in or encroached upon the required side yard of a corner lot which is adjacent to the street nor upon the required side yard of a reversed corner lot which is adjacent to the street.

12. After the public hearing, the Zoning and Planning Board may authorize the change of a nonconforming use to another of the same classification provided that the Zoning and Planning Board shall find that the proposed change of use will not adversely affect the character of the neighborhood in which such nonconforming use is located.

#### D. AREA REGULATIONS

1. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance nor shall the density of population be increased in any manner except in conformity with area regulations hereby established for the district in which a building or premises is located.
2. The minimum area requirement must be located entirely within the same zoning district as that of the proposed use.

#### E. HEIGHT REGULATIONS

1. Except as otherwise provided in this ordinance, the height of any building hereafter erected, converted, enlarged, or structurally altered shall be in compliance with the regulations established herein for the district in which such building is located.
2. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the mean level of the adjoining ground is more than five (5) feet.
3. Accessory farm buildings, belfries, windmills, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, silos, scenery lofts, tanks, water towers, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, public water towers, telephone, telegraph and power transmission poles and lines, microwave radio relay structures, and necessary mechanical appurtenances may exceed the maximum height requirements of the respected zoning districts in this ordinance, but in no case shall any of these structures exceed two hundred (200) feet in height.
4. Churches, schools, hospitals, sanitariums, and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet provided the front, side, and rear yards required in the district in which the 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.

5. All towers and structures shall comply with the "Obstruction Marking and Lighting" requirements of the Federal Aviation Administration in cooperation with the Federal Communications Commission. Where "Dual Light Systems" are optional, it shall be mandatory that white strobe lighting be used only during daylight hours, and only the red light shall be utilized.
6. Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.
7. On through lots which extend from street to street, the height of the main building may be measured from the mean elevation of the finished grade along the end of the building facing either street.

#### F. YARD REGULATIONS

1. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building.
2. Buildings on through lots and extending from street to street shall comply with all rear yard, side yard, and setback requirements.
3. Every part of a required yard shall be open and unoccupied by any structure from the ground upward, except as follows:
  - a. Detached accessory buildings may be located in the rear yard.
  - b. Sills, belt courses, cornices, canopies, eaves, and ornamental architectural features projecting not more than thirty (30) inches.
  - c. Bay windows, balconies, and chimneys projecting not more than three (3) feet in any case but not more than twenty (20) percent of the width of any side yard which does not abut on a street provided that the total length of such projections is not more than one-third of the length of the building wall on which they are located.
  - d. Fire escapes projecting not more than five (5) feet in any case but not more than twenty (20) percent of the width of any side yard which does not abut on a street; provided that no such fire escape need be less than three (3) feet in width.
  - e. Uncovered steps and landings projecting not more than six (6) feet in any case but not more than twenty (20) percent of the width of any side yard which does not abut on a street provided that no such steps or landings shall extend above the main or entrance floor, except for a railing not more than three (3) feet in height.

- f. Platforms, walks, and drives extending not more than six (6) inches above the average ground level at their margins and retaining walls when the top of such walls is not more than six (6) inches above the average level of abutting ground on one side may be located in any yard.
- g. Fences, walls, and hedges may be located as follows:
  - (1) Solid fences and walls more than six (6) feet in height shall be considered as buildings, and the appropriate requirements of this ordinance shall be applied accordingly.
  - (2) Fences, walls, and hedges shall not exceed three and one-half (3-1/2) feet in height when located in a front yard or in the street side yard of a reversed corner lot.
  - (3) Fences, walls, and hedges shall not exceed two and one-half (2-1/2) feet in height when located within a vision clearance triangle.

## G. HOME OCCUPATIONS

- 1. A home occupation is only allowed as an accessory use of a dwelling carried on by a member or members of the immediate family residing on the premises.
- 2. The use must be clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
- 3. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- 4. No storage or display of material, goods, supplies, or equipment related to the operation shall be visible from the outside of any structure located on the premises.
- 5. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one (1) sign, non-illuminated and not exceeding two (2) square feet in area.

## H. STORAGE

- 1. The use of semi-trailers and truck bodies not having a current Wisconsin Department of Transportation Safety Inspection Certificate, as well as other types of shipping containers, not including temporary dumpsters, as

outside storage containers may be allowed as a conditional use only in the Agricultural, Agriculture - Farmland Preservation, and Industrial Districts and if approved by the Town Board. The Town may place conditions and restrictions on the establishment of such use, including, but not limited to, landscaping, number of storage bodies, maintenance, foundation construction, and length of time allowed.



## **ARTICLE V: RESIDENTIAL**

**Purpose:** To identify the Poland area for more dense residential development and commercial uses utilizing standard subdivision platting and design methods as identified in the Brown County Subdivision Ordinance. Rezoning to the Residential District may be considered within the context of the concepts for the Poland Town Center as identified in the 2003 Town of Eaton Comprehensive Plan.

The following regulations shall apply in Residential Districts:

### **A. PERMITTED USES**

1. Public parks and recreational sites.
2. Single-family dwellings.
3. Transmission lines, substations, telephone and telegraph lines, and public utility installation.
4. Two-family dwellings.
5. Schools (elementary, junior high, middle school, and senior high)
6. Fire stations, police stations, post offices, and other governmental or municipal facilities.

### **B. PERMITTED ACCESSORY USES**

1. Conservation and greenhouses for plants, provided such activity is not used for wholesale or retail trade beyond the limitations of a home occupation.
2. Home occupations, provided that such occupation is incidental to the use of the premises for residential purposes and does not affect any substantial change in the character of the premises or of the neighborhood; that no article is sold or offered for sale on the premises (except such as is produced by such occupation); that no mechanical equipment is used other than such as is permissible for purely domestic purposes; and that no person other than a member of the immediate family living on the premises is employed.
3. Private carports, garages, and driveways.
4. Professional offices, when established in a residential district, shall be incidental to the residential occupation, not more than fifty (50) percent of the floor area of only one (1) story of a dwelling unit shall be occupied by

such offices, and not more than two (2) persons not members of the family may be employed in such offices.

5. Satellite dish antennas less than twelve (12) feet in diameter.
6. Tool houses, sheds, and other similar buildings used for the storage of common supplies.

#### C. CONDITIONAL USES

1. Colleges, universities, hospitals, sanitariums, churches, and other religious institutions.
2. Manufactured home park.
3. Microwave relay towers.
4. Multifamily dwelling.
5. Planned Residential Development District.
6. Commercial uses listed as permitted in Article VIII (A) B-1 Community Business District.
7. Community-based residential facilities.

#### D. LOT REQUIREMENT

1. Area – Minimum 40,000 square feet.  
Maximum two (2) acres.
2. Zoning lot frontage – one hundred (100) feet minimum.

#### E. HEIGHT REGULATIONS

1. Accessory residential uses – twenty-five (25) feet.
2. Farm structures – sixty (60) feet maximum. \*
3. Principal residential dwellings – thirty (30) feet maximum. \*

\* Except as provided by Article IV, Subsection E, Height Regulations.

F. BUILDING SETBACKS

	<b>Principal Structure</b>	<b>Accessory Buildings</b>
Front Yard	30 feet minimum from right-of-way	30 feet minimum from right-of-way
Side Yard	10 feet minimum	10 feet minimum
Rear Yard	25 feet minimum	10 feet minimum
Corner Side	30 feet minimum from right-of-way	30 feet minimum from right-of-way

G. BUILDING STANDARDS FOR RESIDENTIAL BUILDINGS

1. Minimum Floor Area. The minimum floor area for every dwelling shall be eight hundred fifty (850) square feet, excluding the area of garage or carport.
2. Roof Overhang. All main buildings shall have a pitched roof with a minimum twelve (12) inch roof overhang on each of the dwelling's perimeter walls such that the overhang is architecturally integrated into the design of the dwelling.
3. Roofing Material. All main buildings and all detached garages or carports located on the front half of a lot shall have a roof surface of wood shakes, asphalt, composition or wood shingles; clay, concrete, or metal tiles slate or built-up gravel materials.
4. Siding Materials. All main buildings and all detached garages located on the front half of a lot shall have exterior siding material consisting of either wood, masonry, concrete, stucco, masonite, vinyl lap, or metal lap. The exterior siding material shall extend to ground level; except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
5. Foundations. All main buildings shall be placed on a four (4) inch concrete slab or a frost wall a minimum of four (4) feet below ground level on footings. Frost wall shall consist of eight (8) inch concrete block or a poured concrete wall of not less than six (6) inches in width or a basement wall a minimum of seven (7) feet on footings below ground level. Basement wall shall consist of eight (8) inch concrete block or eight (8) inch poured concrete. If brick exterior is to be used over the basement wall, the basement wall shall be ten (10) inch concrete block or ten (10) inch poured concrete.

6. Minimum Width. The minimum width of a dwelling shall be fourteen (14) feet.
7. Wheels and Axles. All tow bars, wheels, and axles shall be removed when the dwelling is installed on a residential lot.

H. ACCESSORY BUILDING

Accessory uses shall conform to district requirements and those set forth in Article IV, Subsection C, Building and Uses.

I. PARKING

Parking shall conform to the requirements as set forth in Article XIII, Off-Street Parking Requirements.

J. SIGNS

Signs shall be regulated as set forth in Article XII, Sign Regulations.

K. OTHER REQUIREMENTS

1. Other structures or buildings allowed within the Residential District shall meet the requirements of the district and remaining articles of the zoning ordinance as determined by the Town zoning administrator.

## **ARTICLE VI: AGRICULTURE**

**Purpose:** To allow limited rural residential development on lands in predominantly agricultural areas of the Town that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. New single-family and two-family lots are limited in number, size, and location to minimize the agricultural impacts associated with rural residential development. Residents of this district may experience conditions associated with farming that are not necessarily compatible with rural residential use. Rezoning to the Agricultural District may be considered within the Sliding Scale Agriculture Areas of the 2003 Town of Eaton Comprehensive Plan.

The following regulations shall apply in the Agriculture Zoning District:

### A. PERMITTED USES

1. Agricultural warehouses.
2. Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, horticulture, livestock raising, hatcheries, nurseries, orchards, pasturage, poultry raising, riding academies and stables, truck farming, and wildlife sanctuaries and game preserves, which involve no more than:
  - a. 600 dairy cows plus offspring over a two-year period not to exceed 400 yearlings and 400 two-year-olds; or
  - b. 200 beef plus offspring over a two-year period not to exceed 50 yearlings and 50 two-year-olds or 50 sows; or
  - c. 200 feeder pigs or 1000 poultry birds.
3. Farm ponds.
4. Parks, recreational sites, and golf courses.
5. Single-family and two-family residences shall be permitted on lots or parcels of land for which a deed has been recorded in the office of the Brown County Register of Deeds upon or prior to the effective date of this ordinance or a lot or parcel of land that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution, provided they are able to meet all other applicable standards and requirements of this ordinance and all other applicable township and county ordinances and subject to the following area and dimensional regulations. Lots or parcels of records, other than recorded certified survey maps and subdivision plats, which on the effective date of this ordinance had separate legal descriptions but were under the same

ownership and were contiguous, shall be considered as one lot or parcel. The maximum number of single-family or two-family residences (one per parcel split), in addition to an existing principal dwelling or the parent parcel that may be created and split off from the existing lot of record, shall be based on the gross area of that tract or parcel which is to be subdivided and which constitutes the lot of record existing on the effective date of this ordinance is as follows:

Area of Lot of Record at the Time of This Effective Date of This Ordinance	Maximum Number of Parcel Splits
0 – 3.999 Acres	1
4 – 10.999 Acres	2
11 – 20.999 Acres	3
21 – 39.99 Acres	4
40+ Acres	One additional parcel split for every 10 acres of land

No additional future land splits may occur out of the original parcel of record once the maximum number of parcel splits that are allowed per the table above have been created.

- a. One bonus parcel split may be awarded by the Town Zoning and Planning Board if the new single-family or two-family parcel splits are adjacent or contiguous to each other and are located on nonproductive agricultural land as mapped in the 2003 Town of Eaton Comprehensive Plan or if the new parcel splits are adjacent or contiguous to each other and located adjacent to other previously created parcels that are ten acres or less in size with an existing house located on each parcel.
- b. Any parcel created and recorded after March 5, 1990, shall be considered an allocated parcel split and will count towards the maximum number of parcel splits allowed per lot of record, as described in Article VI, A, 5.
- c. Exception: A new parcel larger than two acres but not larger than ten acres may be created without requiring the combining of allowable splits as described in Article VI, F, 1, b, (1) when it contains an existing home and farm buildings and was created for use as of a hobby farm. This action will only count as one split and will count towards the maximum number of parcel splits allowed per lot of record, as described in Article VI, A, 5.
- d. If, as documented by the Town of Eaton, an original lot of record existing on the effective date of this ordinance has exhausted all available parcel splits as specified in Section VI(A)(5) and a

parcel(s) created from the original lot of record is (are) less than 15 acres, then additional splits may be allowable with approval from the Town Planning Commission and Town Board, provided the resultant lots conform to all other applicable town, county, and state regulations.

6. Transmission lines, substations, telephone and telegraph lines, and public utility installation.
7. Conservation subdivisions adhering to Section 21.71, *Conservation Designed Subdivisions*, of the Brown County Subdivision Ordinance.

#### B. PERMITTED ACCESSORY USES

1. Additional structures necessary for the continuance of the farming operation.
2. Conservatories and greenhouses for plants, provided such activity is not used for wholesale or retail trade beyond the limitations of a home occupation.
3. Home occupations, provided that such occupation is incidental to the use of the premises for residential purposes and does not affect any substantial change in the character of the premises or of the neighborhood; that no article is sold or offered for sale on the premises except such as is produced by such occupation; that no mechanical equipment is used other than such as is permissible for purely domestic purposes; and that no person other than a member of the immediate family living on the premises is employed.
4. Professional offices, when established in the Agriculture District, shall be incidental to the agricultural occupation. Not more than fifty (50) percent of the floor area of only one (1) story of a dwelling unit shall be occupied by such offices and not more than two (2) persons not members of the family may be employed in such offices.
5. Private garages, carports, and driveways.
6. Roadside stands, provided the structure does not cover more than three hundred (300) square feet in ground area and does not exceed ten (10) feet in height.
7. Satellite dish antennas less than twelve (12) feet in diameter.
8. Tool houses, sheds, and other similar buildings used for the storage of common supplies.

## C. CONDITIONAL USES

1. Airfields, airports, and heliports.
2. Cemeteries.
3. Colleges, universities, schools (elementary, junior high, middle, and senior high schools), hospitals, sanitariums, churches, and other religious institutions.
4. Earth excavations.
5. Microwave relay towers.
6. Wind turbines for the generation of electrical power.
7. Planned Residential Development District.
8. Subdivisions of land creating five or more parcels or building sites of 10 acres each or less in a 5-year period that are not considered to be Conservation Designed Subdivisions, as provided in Section 21.71, Brown County Subdivision Ordinance.
9. Town sanitary landfills and Town solid waste disposal sites.
10. Artificial lakes.
11. Fire stations, police stations, post offices, and other municipal facilities.
12. Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, horticulture, livestock raising, hatcheries, nurseries, orchards, pasturage, poultry raising, riding academies and stables, truck farming, and wildlife sanctuaries and game preserves, which involve more than:
  - a. 600 dairy cows plus offspring over a two-year period not to exceed 400 yearlings and 400 two-year-olds; or
  - b. 200 beef plus offspring over a two-year period not to exceed 50 yearlings and 50 two-year-olds or 50 sows; or
  - c. 200 feeder pigs or 1000 poultry birds.
13. The use of semi-trailers and truck bodies not having a current Wisconsin Department of Transportation Safety Inspection Certificate, as well as other types of shipping containers, not including dumpsters, as outside storage containers. The Town may place conditions and restrictions on



the establishment of such use, including, but not limited to, landscaping, the number of storage bodies, maintenance, foundation construction, and length of time allowed.

D. STANDARDS FOR CONSIDERATION APPLICABLE TO CONDITIONAL USES

1. The statement of purposes of this ordinance.
2. The potential conflict with agricultural use.
3. The availability of alternative locations.
4. Compatibility with existing or permitted uses on adjacent lands.
5. The effect of the proposed use on water or air pollution, soil erosion, and rare or irreplaceable natural resources.
6. Proposed plans for the storage and disposal of animal wastes.
7. Runoff control plans.
8. Consistency with the adopted Town of Eaton Comprehensive Plan.

E. CONDITIONS THAT MAY BE ATTACHED TO CONDITIONAL USES

1. Increased setbacks and yards.
2. Specifications for water supply facilities.
3. Liquid waste and solid waste facilities.
4. Landscaping and planting screens.
5. Operational controls.
6. Sureties.
7. Air pollution controls.
8. Erosion prevention measures.
9. Location of the use.
10. Any other similar requirements found necessary to fulfill the purpose of this ordinance.

## F. LOT REQUIREMENT

### 1. Area

- a. Minimum lot area – 40,000 square feet.
- b. Maximum new single or two-family lot area.
  - (1) Two acres with the exception that lots greater than two acres in size can be created by combining allowable lot splits so long as the maximum number of allowable lot splits created via the large lot combination has not been exceeded (i.e., one 8-acre lot may be substituted for four 2-acre lots from a 40-acre parent parcel). For purposes of the sliding scale to determine the amount of lot splits allocated by the creation of a lot greater than two acres in size, the lot size (acres) must be divided by two. Dividing the acreage size of the lot to be created by two identifies the amount of equivalent lots created. If the number is not a whole number divisible by two, the number must be rounded up or down to the nearest whole number. If the division process creates any number that has a fraction of .5 or greater, the number must be rounded up. (Example: a created 5.1-acre lot divided by 2 equals 2.55. The 2.55 must be rounded up to 3, which would be the amount of equivalent lot splits determined to be created by creating a 5.1-acre lot.) The number would be rounded down if the division process creates any number that has a fraction of less than .5. (Example: a created 4.9-acre lot divided by 2 equals 2.45. The 2.45 would be rounded down to 2, which would be the amount of equivalent lot splits determined to be created by creating a 4.9-acre lot.)
  - (2) If approved by the Town Zoning and Planning Board, portions of parcels greater than two acres in size determined by the Town Zoning and Planning Board to be unbuildable for residential purposes may be subtracted from the total acreage figure used in the calculation of equivalent lot splits created. Wetlands, steep slopes, ravines, and floodplains are some examples of features that may be considered unbuildable. For example, the creation of a 10-acre lot split creates the equivalent of five lot splits. If, however, the 10-acre parcel contains six acres of wetlands, only four acres of the parcel would be used in calculating the equivalent lot splits created, so in effect only two equivalent lot splits created would be assigned to the parcel.
  - (3) 2 acres for parcels within a conservation designed subdivision or a permitted standard subdivision.
- c. Maximum hobby farm lot area.

- (1) 10 acres (the new hobby farm parcel will count as one split toward the overall parcel split total)
  - d. The lot area requirements must be located entirely within the same zoning district as the proposed use.
  - e. Land sold for use as raw agricultural land is not subject to the 2-acre maximum lot size or split combination requirements but is subject to the 40,000 square feet minimum lot size.
- 2. Zoning lot frontage –one hundred (100) feet minimum.
    - a. The required zoning lot frontage must be located entirely within a lot or parcel of record containing the proposed use but does not have to be located within the same zoning district as that of the proposed use.

G. HEIGHT REGULATIONS

- 1. Farm structures – sixty (60) feet maximum. \*
- 2. Residential dwellings – thirty-five (35) feet maximum. \*

\* Except as provided by Article IV, Subsection E, Height Regulations.

H. BUILDING SETBACKS

	<b>Principal Structure</b>	<b>Accessory Buildings</b>
Front Yard	30 feet minimum from right-of-way	30 feet minimum from right-of-way
Side Yard	10 feet minimum	10 feet minimum
Rear Yard	25 feet minimum	10 feet minimum
Corner Side	30 feet minimum from right-of-way	30 feet minimum from right-of-way

I. BUILDING STANDARDS FOR RESIDENTIAL BUILDINGS

- 1. Minimum Floor Area. The minimum floor area for every dwelling shall be eight hundred fifty (850) square feet, excluding the area of garage or carport.
- 2. Roof Overhang. All main buildings shall have a pitched roof with a minimum twelve (12) inch roof overhang on each of the dwelling’s perimeter walls such that the overhang is architecturally integrated into the design of the dwelling.

3. Roofing Material. All main buildings and all detached garages or carports located on the front half of a lot shall have a roof surface of wood shakes, asphalt, composition or wood shingles; clay, concrete, or metal tiles; slate or built-up gravel materials.
4. Siding Materials. All main buildings and all detached garages located on the front half of a lot shall have exterior siding material consisting of either wood, masonry, concrete, stucco, masonite, vinyl lap, or metal lap. The exterior siding material shall extend to ground level; except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
5. Foundations. All main buildings shall be placed on four (4) inch concrete slab or a frost wall a minimum of four (4) feet below ground level on footings. Frost wall shall consist of eight (8) inch concrete block or a poured concrete wall of not less than six (6) inches in width or a basement wall a minimum of seven (7) feet on footings below ground level. Basement wall shall consist of eight (8) inch concrete block or eight (8) inch poured concrete. If brick exterior is to be used over basement wall, the basement wall shall be ten (10) inch concrete block or ten (10) inch poured concrete.
6. Minimum Width. The minimum width of a dwelling shall be fourteen (14) feet.
7. Wheels and Axles. All tow bars, wheels, and axles shall be removed when the dwelling is installed on a residential lot.

J. ACCESSORY BUILDING

Accessory uses shall conform to district requirements and those set forth in Article IV, Subsection C, Building and Uses.

K. PARKING

Parking shall conform to the requirements as set forth in Article XIII, Off-Street Parking Requirements.

L. SIGNS

Signs shall be regulated as set forth in Article XII, Sign Regulations.

M. OTHER REQUIREMENTS

1. All future residential dwellings connected with a farming operation shall be located on a separate lot containing a minimum of 40,000 square feet, a maximum of two acres (unless available parcel split combinations are undertaken as described in Section F (1)(b)) and one hundred (100) feet of lot frontage.
2. Other structures or buildings allowed within the Agriculture District shall meet the requirements of the district and remaining articles of the zoning ordinance as determined by the Town Zoning Administrator.



## **ARTICLE VII: AGRICULTURE – FARMLAND PRESERVATION (AG-FP)**

### **A. DEFINITIONS IN THE AG-FP DISTRICT ONLY:**

- (1) “Accessory use” means any of the following permitted land uses on a farm:
- (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
  - (b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
  - (c) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
    - 1. It is conducted on a farm by an owner or operator of that farm.
    - 2. It requires no buildings, structures, or improvements other than those described in par. (a).
    - 3. It employs no more than 2 full-time employees annually
    - 4. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (2) “Agricultural use” means any of the following activities conducted for the purpose of producing an income or livelihood:
- (a) Crop or forage production.
  - (b) Keeping livestock.
  - (c) Beekeeping.
  - (d) Nursery, sod, or Christmas tree production.
  - (e) Floriculture.
  - (f) Aquaculture.
  - (g) Fur farming.
  - (h) Forest management.
  - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (3) “Agriculture-related use” means any of the following:
- (a) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- (4) “Conditional use” means a use allowed under a conditional use permit issued by the Town of Eaton.

- (5) “Farm” means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
  - (b) A majority of the land area is in agricultural use.
- (6) “Farm residence” means a single-family or duplex residence that is the only residential structure on the farm.
- (7) “Gross farm revenue” means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. “Gross farm revenue” includes receipts accruing to a renter, but does not include rent paid to the land owner.
- (8) “Livestock” means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites and farm-raised fish.
- (9) “Open space parcel” means a parcel on which no buildings, other than hunting blinds or non-habitable sheds less than 100 square feet, have been constructed or approved for construction.
- (10) “Person” means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
- (11) “Prime farmland” means all of the following:
- (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
  - (b) Land, other than land described in par. (a), which is identified as prime farmland in the county’s certified farmland preservation plan.
- (12) “Prior nonconforming use” means a land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.
- (13) “Protected farmland” means land that is any of the following:
- (a) Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.



- (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
- (c) Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
- (d) Otherwise legally protected from nonagricultural development.

**B. ORDINANCE ADMINISTRATION AND ENFORCEMENT**

- (1) The Town of Eaton, Brown County, Wisconsin, is the responsible entity for administration and enforcement of the AG-FP ordinance.

**C. LAND USE IN FARMLAND PRESERVATION ZONING DISTRICT; GENERAL.** Only the following land uses are allowed in a farmland preservation zoning district:

- (1) Uses allowed under Section D as a permitted use.
- (2) Uses allowed under Section E with a conditional use permit.
- (3) Prior nonconforming uses, subject to 60.61(5).

**D. PERMITTED USES.** The following land uses are allowed without a conditional use permit in a farmland preservation zoning district:

- (1) Agricultural uses on farms, including:
  - (a) Crop or forage production.
  - (b) Keeping of livestock.
  - (c) Beekeeping.
  - (d) Nursery, sod, or Christmas tree production.
  - (e) Floriculture.
  - (f) Aquaculture.
  - (g) Fur farming.
  - (h) Forest management.
  - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (2) Undeveloped natural resource and open space areas.
- (3) Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

- (4) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (5) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (6) A home business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
  - (a) It is conducted on a farm by an owner or operator of that farm.
  - (b) It requires no buildings, structures, or improvements other than those described in par. (4).
  - (c) It employs no more than 2 full-time employees annually.
  - (d) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (7) Existing residences regardless of occupancy, existing as of January 1, 2014.

**E. CONDITIONAL USES.**

**(1) General.**

- (a) The Eaton Town Board may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. The Eaton Town Board shall follow the procedures described in Article XVI(K) of the Town of Eaton Code of Ordinances for the issuance of conditional use permits.
- (b) Before issuing a conditional use permit under par. (a), the Eaton Town Board shall determine that the proposed use meets applicable conditions under this section. The Eaton Town Board may issue the permit subject to any additional conditions which the Eaton Town Board deems necessary to carry out the purposes of this ordinance.

**(2) Conditional Uses Include**

- (a) Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all the following apply:
  - 1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - 2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  - 3. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
  - 4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (b) Governmental, institutional, religious, or nonprofit community uses, if all the following apply:
1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
  3. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
  4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- (c) Nonmetallic mineral extraction, if all the following apply:
1. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. Section 295.13 or Wisconsin Stat. Section 295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.
  2. The operation and its location in the AG-FP zoning district are consistent with the purposes of the AG-FP zoning district.
  3. The operation and its location in the AG-FP zoning district are reasonable and appropriate, considering alternative locations outside the AG-FP zoning district, or are specifically approved under state or federal law.
  4. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
  5. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  6. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.

- (d) Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.
- (e) Agriculture-related Uses

**F. REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT.**

- (1) Except as provided in sub. (2), the Eaton Town Board may not rezone land out of a farmland preservation zoning district unless the Eaton Town Board finds all of the following in writing, after public hearing, as part of the official record of the rezoning, before granting the rezone:
  - (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  - (b) The rezoning is consistent with the comprehensive plan, adopted by the Eaton Town Board, which is in effect at the time of the rezoning.
  - (c) The rezoning is substantially consistent with the Brown County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
  - (d) The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (2) Subsection (1) does not apply to any of the following:
  - (a) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
  - (b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Brown County Farmland Preservation Plan Map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- (3) By March 1 of each year, the Town of Eaton shall provide to the Wisconsin Department of Agriculture, Trade, and Consumer Protection and Brown County a report of the number of acres that the Town of Eaton has rezoned out of the AG-FP zoning district under subsection (1) during the previous year and a map that clearly shows the location of those acres.

**G. DIMENSIONAL REQUIREMENTS**

- (1) Lot Requirement
  - (a) Area: 40,000 square feet minimum
  - (b) Zoning Lot Frontage: One hundred (100) feet minimum
- (2) Building Setbacks

<b>Yard</b>	<b>Principal Structure</b>	<b>Accessory Buildings</b>
Front Yard	30 feet minimum from right-of-way	30 feet minimum from right-of-way
Side Yard	25 feet minimum	25 feet minimum
Rear Yard	25 feet minimum	25 feet minimum
Corner Side Yard	30 minimum from right-of-way	30 feet minimum from right-of-way

- (3) Parking  
 Parking shall conform to requirements as set forth in Article XIII Off-Street Parking Requirements
  
- (4) Signs  
 Signs shall be regulated as set forth in Article XII, Sign Regulations.



## **ARTICLE VIII: B-1 COMMUNITY BUSINESS DISTRICT**

The Community Business District is intended to serve the retail and service needs of nearby residential areas with a wide range of products and services for both daily and occasional shopping. The following regulations shall apply in the B-1 Districts.

### **A. PERMITTED USES**

Uses permitted in the B-1 District are subject to the following conditions:

1. Dwelling units and rooming units are not permitted below the second floor except as the residence of the owner or operator of a business on the premises.
2. Establishments of the “drive-in” type offering goods or services directly to customers waiting in parked motor vehicles are allowed only by conditional use permit.

The following uses are permitted in the B-1 District:

1. Antique shops.
2. Art and school supply stores.
3. Art shops or galleries but not including auction rooms.
4. Automobile accessory stores.
5. Bakeries – room or rooms containing the baking process shall not exceed a total of five thousand (5,000) square feet in area.
6. Banks and financial institutions.
7. Barber shops.
8. Beauty parlors.
9. Bicycle sales, rental, and repair stores.
10. Blueprinting and photostating.
11. Boat showrooms and sales.
12. Book and stationary stores.
13. Bowling alleys.

14. Business machine sales and service.
15. Camera and photographic supply stores.
16. Candy and ice cream stores.
17. Carpet and drug stores - retail sales only.
18. Catering establishments.
19. Child daycare centers.
20. China and glassware stores.
21. Clothing and costume rental stores.
22. Clubs and lodges, nonprofit and fraternal.
23. Coin and stamp stores.
24. Computer and data processing services.
25. Custom dressmaking.
26. Department stores.
27. Drugstores.
28. Dry cleaning establishments not engaged in wholesale processing.
29. Dry good stores.
30. Eating and drinking places, excluding drive-ins and establishments primarily engaged in carryout service.
31. Electrical and household appliance stores, including radio and television sales.
32. Electrical showrooms and shops.
33. Employment agencies.
34. Florist shops.
35. Food stores, grocery stores, meat markets, bakeries, and delicatessens.



36. Frozen food stores, including locker rental in conjunction therewith.
37. Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.
38. Furrier shops, including the incidental storage and conditioning of furs.
39. Garden supply, tool, and seed stores.
40. Gift shops.
41. Hardware stores.
42. Hobby shops for retail of items to be assembled or used away from the premises.
43. Household appliances, office equipment, and other small machine sales and service.
44. Interior decorating shops, including upholstering and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
45. Insurance agencies.
46. Jewelry stores, including watch and clock repair.
47. Laboratories, medical, and dental.
48. Laboratories, medical and dental, research and testing.
49. Launderettes, automatic self-service only, or hand laundries employing not more than two (2) persons in addition to one (1) owner or manager.
50. Leather goods and luggage stores.
51. Libraries.
52. Liquor stores, packaged goods.
53. Locksmith shops.
54. Medical and dental clinics.
55. Meeting halls.

56. Millinery shops.
57. Miscellaneous personal services.
58. Miscellaneous repair shops.
59. Miscellaneous shopping goods stores.
60. Motor vehicle and automotive parts and supplies.
61. Musical instrument sales and repair.
62. Newspaper distribution agencies for home delivery and retail trade.
63. Nurseries, lawn and garden supply stores.
64. Nursing and personal care facilities.
65. Office machine sales and service.
66. Offices, business, professional, and governmental.
67. Office supply stores.
68. Optician sales, retail.
69. Orthopedic and medical appliance stores.
70. Paint and wallpaper stores.
71. Pet shops.
72. Phonograph record and sheet music stores.
73. Photography studios, including the development of film and pictures, when conducted as part of the retail business on the premises.
74. Picture framing when conducted for retail trade on the premises only.
75. Plumbing showrooms and shops.
76. Post offices.
77. Publishing and printing.

78. Radio and television sales, servicing, and repair shops.
79. Radio and television stations and studios.
80. Real estate offices.
81. Recording studios.
82. Residential care group homes.
83. Restaurants, including the serving of alcoholic beverages.
84. Schools: dance, music, and business.
85. Security brokers.
86. Sewing machine sales and service, household appliances only.
87. Shoe, clothing, and hat repair stores.
88. Shoe stores.
89. Sporting goods stores.
90. Tailor shops.
91. Taverns.
92. Taxidermists.
93. Telegraph offices.
94. Telephone booths and coin telephones.
95. Ticket agencies, amusement.
96. Tobacco shops.
97. Toy shops.
98. Travel bureaus and transportation ticket offices.
99. Undertaking establishments and funeral parlors.
100. Used merchandise stores.

101. Variety stores.
102. Video sales and rental.
103. Wearing apparel shops and accessories.
104. Any other uses similar in character and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.
105. Accessory uses incidental to and on the same zoning lot as the principal use.
106. Fire stations, police stations, post offices, and other municipal facilities.

**B. CONDITIONAL USES**

The following conditional uses may be allowed in the B-1 District, subject to the provisions of Article XVIII, Subsection I:

1. Amusement establishments: archery ranges, bowling alleys, shooting galleries, game room, swimming pools, skating rinks, and other similar amusement facilities.
2. Animal hospitals, veterinary services, and kennels.
3. Auction rooms.
4. Automotive repair shops.
5. Automotive rental and leasing.
6. Automotive services.
7. Building material products sales.
8. Car wash.
9. Dry cleaning establishments employing more than four (4) persons.
10. Dwelling units and rooming units above the ground level.
11. Eating and drinking establishments primarily engaged in drive-in and carryout service.
12. Farm machinery and equipment sales.

13. Greenhouses, commercial.
14. Hotels, motels.
15. Junkyards, auto wrecking yards.
16. Mail order houses.
17. Manufactured home sales.
18. Motor vehicle sales.
19. Off-premise signs greater than three hundred (300) square feet in size and less than five hundred one (501) square feet in size.
20. Parking garages or structures other than accessory for the storage of private passenger automobiles only.
21. Parking lots, open and other than accessory.
22. Recreational and utility trailer dealers.
23. Schools, commercial and trade.
24. Wood cabinetmaking.

D. LOT REQUIREMENT

1. Area. 40,000 square feet minimum.
2. Zoning Lot Frontage. One hundred (100) feet minimum.

E. HEIGHT REGULATIONS

1. All Structures. Thirty-five (35) feet maximum. \*

\* Except as provided by Article IV, Subsection E, Height Regulations.

F. BUILDING SETBACKS

	<b>Principal Structure</b>	<b>Accessory Buildings</b>
Front Yard	30 feet minimum from right-of-way	30 feet minimum from right-of-way
Side Yard	15 feet minimum	10 feet minimum
Rear Yard	25 feet minimum	10 feet minimum
Corner Side	30 feet minimum from right-of-way	30 feet minimum from right-of-way

G. ACCESSORY BUILDING

Accessory uses shall conform to district requirements and those set forth in Article IV, Subsection C, Building and Uses.

H. PARKING

Parking shall conform to the requirements as set forth in Article XIII, Off-Street Parking Requirements.

I. SIGNS

Signs shall be regulated as set forth in Article XII, Sign Regulations.

## **ARTICLE IX: I-1 INDUSTRIAL DISTRICT**

### **A. USE**

In the Industrial District, buildings and land may be used for any purpose except the following:

1. All residential dwellings.
2. Religious, educational, charitable, and medical institutions.
3. Uses contrary to laws of the State of Wisconsin or ordinances adopted by the County Board of Brown County, Wisconsin.
4. Any of the following uses, unless the location thereof shall have been approved in writing by the Town Zoning and Planning Board following a public hearing and such approval shall be consistent with the general purpose and intent of this ordinance and shall be based upon such evidence as may be presented at such public hearing, tending to show the desirability or undesirability of specific proposed locations for a specific proposed use from the standpoint of the public interest because of such factors as (without limitation because of enumeration) smoke, dust, noxious or toxic gases and odors, noise, glare, vibration, heavy vehicular traffic, and increased traffic on the public street.
  - a. Acid, ammonia, bleach, chlorine, or soap manufacture.
  - b. Ammunition or explosives manufacture or storage.
  - c. Asphalt, coal, coal tar or coke manufacture, asphalt and asphalt cement mixing plants.
  - d. Bone distillation, fat rendering, or any other form of dead animal reduction.
  - e. Cement or lime manufacture, cement or concrete mixing plants.
  - f. Chemicals manufacture.
  - g. Coal tar products manufacture.
  - h. Coke ovens.
  - i. Fertilizer manufacture.
  - j. Forge plant.
  - k. Garbage, rubbish, or other waste dumping.
  - l. Gelatin, glue, or size manufacture.
  - m. Inflammable gases or liquids, refining, or manufacture of over-ground tank farms.
  - n. Junk or salvage yard, auto wrecking yard.
  - o. Smelting or foundry operations.
  - p. Sulfuric, nitric, or hydrochloric acid manufacture.

B. LOT REQUIREMENT

1. Area. One and one-half (1-1/2) acres minimum.
2. Zoning Lot Frontage. Two hundred (200) feet minimum.

C. HEIGHT REGULATIONS

1. Principal Structure. Fifty (50) feet.

D. BUILDING SETBACKS

	<b>Principal Structure</b>	<b>Accessory Buildings</b>
Front Yard	30 feet minimum from right-of-way	30 feet minimum from right-of-way
Side Yard	25 feet minimum	25 feet minimum
Rear Yard	25 feet minimum	25 feet minimum
Corner Side	30 feet minimum from right-of-way	30 feet minimum from right-of-way

E. ACCESSORY BUILDINGS

All accessory buildings hereinafter constructed in the I-1 District shall meet the district requirements and those identified in Article IV, Subsection C, Building and Uses.

F. PARKING

Parking shall conform to requirements as set forth in Article XIII, Off-Street Parking Requirements.

G. SIGNS

Signs shall be regulated as set forth in Article XII, Sign Regulations.

H. OTHER REQUIREMENTS

No use shall be established, maintained, or conducted in any I-1 District that causes any of the following:

1. Dissemination of excessive noise, vibration, odor, dust, smoke, observation gas or fumes, or other atmospheric pollutants beyond the boundaries of the immediate site of the building in which such use is conducted.



2. Hazard of fire or explosion or other physical hazard to any person, building, or vegetation.
3. A harmful discharge of waste material.

I. CONDITIONAL USES

1. The use of semi-trailers and truck bodies not having a current Wisconsin Department of Transportation Safety Inspection Certificate, as well as other types of shipping containers, not including dumpsters, as outside storage containers. The Town may place conditions and restrictions on the establishment of such use, including, but not limited to, landscaping, number of storage bodies, maintenance, foundation construction, and length of time allowed.



## **ARTICLE X: PLANNED RESIDENTIAL DEVELOPMENT DISTRICT**

### **A. APPLICATION TO EXISTING USE DISTRICTS**

This section shall operate as an overlay zone and as an alternative to the permitted uses and regulations applicable to existing districts, except for the Agriculture-Farmland Preservation district. Basic underlying zoning requirements for lands over-zoned as a Planned Development District shall continue in full force and effect and shall be solely applicable until such time as the Town Board grants final approval as hereinafter provided.

### **B. PURPOSE**

The purpose of the Planned Development District and the regulations applicable to the same are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations and to accomplish a well-balanced, aesthetically satisfying town and economically desirable development of building sites within a Planned Development District. The permitted uses include single- and multiple-family homes, cluster developments, condominiums, garden apartments, row housing, apartment houses, group housing, and normally attendant accessory uses.

### **C. PROCEDURE**

The procedure for the approval of a Planned Development Project shall consist of the following:

1. A person desiring to develop a particular site as a Planned Development Project shall apply to the zoning administrator and shall pay a fee of fifty dollars (\$50) with such written application. The application shall contain the names, mailing addresses, and telephone numbers of the owners and developers and a description of the development site.
2. The application or petition shall also include the following information and meet the following requirements:
  - a. Street design, number, and general location of dwelling units, common structures and facilities, utilities, and other information that the Town Board may require to make a decision.
  - b. The proper preservation, care, and maintenance by the original and all subsequent owners of exterior design, common structures, utilities, access, and open space shall be ensured by deed restrictions enforceable by the Town or other measures deemed appropriate by the Town Board.
  - c. The minimum size of a development shall be ten (10) acres.

- d. All streets shall have hard surfaces with a minimum roadbed width of thirty (30) feet. All streets shall be well-graded and surface-drained.
  - e. Ample street lighting shall be provided for streets and walkways to the satisfaction of the Town Board.
  - f. Approved sanitary system shall be provided.
  - g. Approved surface water drainage shall be provided.
  - h. Fresh water supply tested and approved shall be provided at each dwelling unit.
  - i. Utilities shall be provided at each dwelling unit.
  - j. All areas not hard-surfaced shall be graded and seeded to meet the approval of the Town Board.
  - k. Parking areas shall meet the requirements of Article XIII, Off-Street Parking Requirements.
  - l. Any other requirement deemed necessary by the Town Board.
3. After receipt of a petition and the filing of the required data, the Zoning and Planning Board and the Town Board shall hold a public hearing and such additional public hearing as may be desirable upon publication of a Class Two (2) Notice in the official newspaper of the Town. Any such hearing may be adjourned without further publication. Following such hearing, the Zoning and Planning Board shall recommend to the Town Board that the petition shall be either approved or disapproved. Upon receipt of the recommendation of the Zoning and Planning Board, the Town Board shall then consider whether or not to give final approval of the proposed project.
  4. No construction shall be commenced on the building site until the Board has granted final approval, except such construction as shall be in compliance with both the requirements of the underlying zone and proposed planned development as submitted for final approval.
  5. No subsequent change or addition to the planned development after final approval shall be allowed or permitted until approved by the Town Board after hearings and the recommendation of the Zoning and Planning Board, as hereinabove provided.

## **ARTICLE XI: MANUFACTURED HOUSING**

This article shall regulate the parking, location, and maintenance of all manufactured homes and manufactured home parks.

Manufactured home parks shall be allowed as conditional uses in the Residential Zone only.

A manufactured home Class II shall only be allowed in a manufactured home park.

Manufactured home parks shall be prohibited in all other zoning districts within the Town of Eaton.

### **A. DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this ordinance:

1. Manufactured Home – Class I. A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in it and is certified and labeled as a manufactured home under 42 U.S.C. Sections 5401 to 5426. For purposes of this ordinance, a manufactured home Class I shall be considered a single-family or two-family home when meeting the required building standards for residential dwellings within this ordinance.
2. Manufactured Home – Class II. A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in it and built prior to the enactment of Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976.
3. Unit. One (1) manufactured home.
4. Non-Dependent Unit. A manufactured home that has a bath or shower and toilet facilities.
5. Dependent Unit. A manufactured home which does not have a bath or shower and toilet facilities.
6. Manufactured Home Park. Any park, court, camp, site, lot, parcel, or tract of land designed, maintained, intended, or used for the purpose of

supplying a location or accommodations for two or more manufactured homes and shall include all facilities used or intended for use as part of the equipment thereof. Manufactured home park shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for purposes of inspection and sale.

7. Space. A plot of ground in a manufactured home park designed for the location of only one (1) manufactured home.
8. Person. Shall be construed to include an individual, partnership, firm, company, and corporation, whether tenant, owner, lessee, or other agent, heir, or assignee.
9. Pad. A concrete slab or its equivalent, as determined by the Town Zoning Administrator, constructed on the manufactured home space for the purpose of accommodating water and sanitary connections for a manufactured home.
10. Occupied Area. That portion of an individual manufactured home space which is covered by a manufactured home and its accessory structures.
11. Park Management. The person who owns or has charge, care, or control of the manufactured home park.

## B. LOCATION OUTSIDE PARK

1. It shall be unlawful, except as provided in this ordinance, for any person to park any manufactured home on any street, alley, highway, or other public place or on any tract of land owned by any person within the Town of Eaton.
2. Emergency or temporary stopping or parking is permitted on any street, alley, or highway for not longer than one (1) hour, subject to any other and further prohibitions imposed by the traffic and parking regulations or ordinances for that street, alley, or highway.
3. No person shall park or occupy any manufactured home Class II on any premises which are situated outside an approved manufactured home park, except under special permit as provided in Section C. Parking of only one (1) unoccupied manufactured home or travel trailer is permitted provided no living quarters shall be maintained or business practiced in said trailer while such trailer is so parked or stored. Said unit can be parked or stored:
  - a. Within an accessory private garage building or in a rear yard during the entire year.

- b. Within the side yard setback area during the period between the dates of May 1 and the second Tuesday in September. A unit so parked may have the drawbar protrude into the front yard setback area.
  - c. Within the front yard setback area for a maximum period of two (2) weeks during the period indicated in (b) above to permit preparation and cleaning of the unit.
4. Replacement of any legally existing manufactured home is allowed in each zone.

C. LICENSE FOR MANUFACTURED HOME PARK: APPLICATION AND ISSUANCE

1. No person shall establish, operate, or maintain or permit to be established, operated, or maintained upon any property owned, leased, or controlled by him/her a manufactured home park within the limits of the Town of Eaton without first securing a license for each park from the Town Board, pursuant to this chapter. Such license shall expire at the close of the calendar year issued but may be renewed under the provisions of this chapter for additional periods of one (1) year.
2. The application of such license or renewal thereof shall be approved by the Town Board. Before a license is issued, an applicant shall pay an annual fee of five hundred dollars (\$500) and, in addition thereto, each applicant for an original or renewal license shall file with the Town Clerk a bond in the sum of one thousand dollars (\$1,000) for each fifty (50) manufactured home spaces or fraction thereof, guaranteeing the collection by the licensee of the monthly parking permit fees as provided in this ordinance and the compliance of the licensee and the park management with the provisions of this ordinance. Such bond shall also be for the use and benefit and may be prosecuted and recovery had thereon by any person who may be injured or damaged by reason of the licensee violating any provision of this ordinance. The annual license shall be subject to renewal by the Town Board, provided that said licensee has abided by the requirements of this ordinance or the laws or regulations of the State of Wisconsin relating to manufactured home parks and their operation, and particularly with reference to laws or ordinances relating to health, sanitation, refuse disposal, fire hazard, morals, or nuisances.
3. The application for a license or a renewal thereof shall be made on forms furnished by the Town Clerk and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the manufactured home park and make the application) and such legal description of the premises upon

which the manufactured home park is or will be located as will readily identify and definitely locate the premises. The initial application for any existing, new, or revised manufactured home park shall be accompanied by five (5) copies of the park plan showing the following, either existing or as proposed:

- a. The extent and area for park purposes.
- b. Roadway and driveways.
- c. Location and designation of dependent and independent manufactured home spaces.
- d. Location of service building indicating the number of sanitary conveniences, including toilets, washrooms, laundries, and utility rooms to be used by occupants of the manufactured home park.
- e. Complete layout of storm, sanitary, and water systems for service building and spaces.
- f. Method and plan of garbage removal.
- g. Plan for electrical or gas lighting of spaces.
- h. Interest of applicant in proposed manufactured home park or extension thereof. If owner of tract is a person other than applicant, a duly verified statement by the owner that applicant is authorized by him/her to construct and maintain the proposed park, addition, modification, or extension and make the application.

#### D. REVOCATION AND SUSPENSION

The Town Board may suspend or revoke a license after a hearing held pursuant to Section 66.058 (2)(d), Wisconsin Statutes.

#### E. LOCATION OF MANUFACTURED HOME PARKS

An application for the construction of a manufactured home park shall be considered only when its proposed location is within a district zoned to permit this type of use.

#### F. MANUFACTURED HOME PARK PLAN

1. Manufactured home spaces shall be clearly defined and shall consist of a minimum of nine thousand (9,000) square feet and a width of not less than eighty-five (85) feet measured at right angles from the side lot line of each space when served by public sanitary sewer and a minimum of one (1) acre and a width of not less than one hundred (100) feet when not served by public sanitary sewer. The park shall be arranged so that all spaces shall face or abut on a roadway of not less than thirty (30) feet in width, giving easy access from all spaces to a public street. Such roadways shall be paved with asphalt or concrete and maintained in good condition and provided for adequate storm water drainage, said drainage to be



determined by the Town. The roadways shall be well-lighted and shall not be obstructed.

2. The park shall be so laid out that no dependent unit shall be farther than two hundred (200) feet from the toilets and service building provided for herein, and walkways to such buildings shall be paved and well-lighted.
3. Electrical service to manufactured home spaces shall conform to the regulations set forth in the Wisconsin State Electrical Code, incorporated herein by reference as though in full set forth.
4. All manufactured homes within a manufactured park shall be parked within the designated spaces.
5. For the protection of abutting property owners, as well as manufactured homeowners, a twenty-five (25) foot buffer strip shall be provided within all property lines of the site. Said buffer strip to be used for the planting of shrubbery and trees and shall be exclusive of the manufactured home spaces. A decorative fence, in accordance with the off-street parking ordinance may, if so desired, be substituted for the rear and interior twenty-five foot buffer strip.
6. Each manufactured home space shall provide a front and rear yard setback of twenty-five (25) feet and a side yard setback of ten (10) feet. The above setbacks shall be seeded and landscaped and in no case shall they be used for off-street parking or be occupied by a manufactured home and/or its necessary buildings, except for the following:
  - a. Structures for utility outlets and garages serving more than one (1) space may be located within the side or rear setback of the common lot line.
7. One (1) off-street parking stall shall be provided within each manufactured home space, said stall to be in accordance with Section F (6).
8. There shall be constructed on each manufactured home space a concrete pad or its equivalent as determined by the Town Building Inspector to be used for the accommodation of necessary water and sanitary connections.
9. A minimum of two hundred (200) square feet per manufactured home space, exclusive of the minimum herein provided for individual manufactured home spaces and buffer strip as indicated in F (5) and (6) above, shall be required for the express purpose of providing open space and recreational area for the residents of the manufactured home park.

10. In no case shall a manufactured home and its accessory buildings occupy more than thirty-six (36) percent of a space, as defined in F (1) above.
11. No person shall construct, alter, add to or alter any structure attachment or building in a manufactured home park or in a manufactured home space without a permit from the Town Building Inspector. Construction on or addition to or alteration to the exterior of a manufactured home shall be of the same type of construction and materials as the manufactured home affected. This subsection shall not apply to addition of awnings, antennae, or skirting to manufactured homes. Accessory structures on manufactured home spaces shall comply with all setback side yard and rear yard requirements for manufactured home units.
12. Minimum Floor Area. The minimum floor area for every dwelling shall be eight hundred fifty (850) square feet, excluding the area of garage or carport.
13. Roof Overhang. All main buildings shall have a pitched roof with a minimum twelve (12) inch roof overhang on each of the dwelling's perimeter walls such that the overhang is architecturally integrated into the design of the dwelling.
14. Roofing Material. All main buildings and all detached garages or carports located on the front half of a lot shall have a roof surface of wood shakes; asphalt, composition, or wood shingles; clay, concrete, or metal tiles; slate or built-up gravel materials.
15. Siding Materials. All main buildings and all detached garages located on the front half of a lot shall have exterior siding material consisting of either wood, masonry, concrete, stucco, masonite, or metal lap. The exterior siding material shall extend to ground level; except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
16. Foundations. All main buildings shall be placed on a four (4) inch concrete slab or a frost wall a minimum of four (4) feet below ground level on footings. Frost wall shall consist of eight (8) inch concrete block or a poured concrete wall of not less than six (6) inches in width or a basement wall a minimum of seven (7) feet on footings below ground level. Basement wall shall consist of eight (8) inch concrete block or eight (8) inch poured concrete. If brick exterior is to be used over basement wall, the basement wall shall be ten (10) inch concrete block or ten (10) inch poured concrete.
17. Minimum Width. The minimum width of a dwelling shall be fourteen (14) feet.

18. Wheels and Axles. All mobile home tow bars, wheels, and axles shall be removed when the dwelling is installed on a residential lot.

G. SANITARIAN REGULATIONS

All manufactured home parks shall conform to the sanitarian and health regulations as set forth by the State of Wisconsin and Brown County.

H. OPERATION OF MANUFACTURED HOME PARKS: RESPONSIBILITY OF PARK MANAGEMENT

1. In every manufactured home park, there shall be located an office of the attendant or person in charge of said park. A copy of the park license and this ordinance shall be posted therein, and the park register shall at all times be kept in said office.
2. The attendant or person in charge and the park licensee shall operate the park in compliance with this ordinance and regulations and ordinances of the town and state and their agents or officers and shall have the following duties:
  - a. Maintain a register of all park occupants to be open at all time to inspection by state, federal, and municipal officers, which shall show:
    - (1) Names and addresses of all owners and occupants of each manufactured home.
    - (2) Number of children of school age.
    - (3) State of legal residence.
    - (4) Dates of entrance and departure of each manufactured home.
    - (5) Make, model, year, and serial number of license number of each manufactured home and towing or other motor vehicles and state, territory, or country issuing such licenses.
  - b. Notify park occupants of the provisions of this ordinance and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this ordinance or any other violations of law which may come to their attention.
  - c. Supervise the placement of each manufactured home on its stand, which includes securing its stability and installing all utility connections and tie-downs.
  - d. Maintain park grounds, buildings, and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
  - e. Maintain the park free from growth of noxious weeds.

I. VARIANCES

The requirements of Section F (1), (5), (6), (7), (8), (9), and (10) shall not apply to manufactured home parks existing prior to the adoption of this ordinance. All provisions of this ordinance, however, shall apply to additions of new manufactured home parks.

## **ARTICLE XII: REGULATION OF SIGNS**

### **A. PURPOSE OF SIGN REGULATION**

To regulate the size, type, construction standards, maintenance and placement of signs situated within the boundaries of the Town of Eaton, Brown County, Wisconsin and to promote the public health, safety, welfare and comfort of the general public, Article XII of the Town of Eaton Code of Ordinances is hereby enacted and shall be known as the "Town of Eaton Sign Code" (the "Sign Code"). This Sign Code accomplishes its purposes by:

1. Reducing distractions and obstructions from signs that would adversely affect traffic safety, and alleviating hazards caused by signs projecting over or encroaching upon the public right-of-way.
2. Discouraging excessive visual competition in signage and ensuring that signs aid orientation and adequately identify uses and activities to the public.
3. Preserving or enhancing the natural beauty and rural character of the Town of Eaton by requiring new and replacement signage which is harmonious with the buildings to which signs relate, surrounding neighborhood aesthetics and other signs in the area, and is complementary to the Town's rural architectural character and unobtrusive commercial developments.
4. Promoting a healthy and properly designed business environment.
5. Protecting property values within the Town.
6. Ensuring safe construction of signage.

### **B SUBSTITUTION CLAUSE**

Notwithstanding anything herein to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure.

### **C SEVERABILITY**

1. If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.
2. If any application of this ordinance to a particular structure, use, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, use, land, or water not specifically included in said judgment.

## D. DEFINITIONS

1. Animated Signs. A sign with action or motion, flashing, color changes requiring electrical energy, electronic or manufactured sources of supply but not including wind-actuated elements, such as flags, banners, or specialty items. This definition does not include public service signs, such as time and temperature, revolving, or changeable message signs.
2. Architectural Projection. Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building but shall not include signs.
3. Area of Copy. The entire area within a single, continuous perimeter composed of squares or rectangles which encloses the extreme limits of the advertising message, announcement, or decoration of a wall sign.
4. Area of Sign. The total accumulative area of faces of the sign within a perimeter which forms the outside shape but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one (1) section or module or if the supports or uprights are an integrated part of the sign face, all areas will be totaled. Any irregular shaped sign area shall be computed using the actual sign-face surface.
5. Background Area of Sign. The entire background area of a sign upon which copy could be placed.
6. Billboard – See “Off-Premise Signs.”
7. Building Façade. That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.
8. Building Façade Facing. A resurfacing of an existing façade with approved material illuminated or non-illuminated.
9. Business Identification Sign. Any sign which promotes the name and type of business only on the premises where it is located.
10. Canopy Sign. Any sign attached to or constructed in, on, or under a canopy or marquee. For the purpose of this ordinance, canopy signs shall be controlled by the rules governing projecting signs.
11. Changeable Message Sign. A sign, such as a manual, electronic, or electric controlled time and temperature sign, message center, or

readerboard, whether electronic, electric, or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.

12. Directional Signs. On premise incidental signs designed to guide or direct pedestrians or vehicular traffic.
13. Double-Faced Sign. A sign with copy on two (2) parallel faces that are back to back and facing in opposite directions.
15. Grade. The elevation or level of the street closest to the sign to which reference is made and measured at the street's centerline.
16. Ground Sign. A sign erected on one or more freestanding supports or uprights and not attached to any building. A ground sign may be elevated above grade or located at grade.
17. Gross Area. The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area or Copy apply.
18. Height of Sign. The vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign.
19. Illuminated Signs. A sign in which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs.
20. Legal Nonconforming Sign. A nonconforming sign that did meet code regulations when it was originally installed.
21. Marquee. Marquee is a permanent roofed structure attached to and supported by the building and projecting over public property.
22. Marquee Sign. Any sign attached to or constructed in a marquee.
23. Multiple-Copy Sign. A sign which advertises other than the name of the business and the principal product or service.
24. Nameplate Sign. A sign indicating the name and address of a building; or the name of an occupant thereof, and the practice of a permitted occupation therein
25. Nonconforming Sign. A sign that does not meet code regulations.

26. Off-Premise Sign. A sign which advertises goods, products, facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located. Off premise signs are prohibited in the Town of Eaton unless specifically exempted under Article XII(G) or through written permission of the Eaton Town Board.
27. On-Premise Sign. Any sign identifying or advertising a business, person, activity, goods, products, or services located on a premise where the sign is installed and maintained.
28. Projecting Sign. A sign, normally double-faced, which is attached to and projects from a structure or building fascia.
29. Revolving Sign. A sign which revolves three hundred sixty (360) degrees but does not exceed eight (8) rpm.
30. Roof Sign. A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building.
31. Sign. Any emblem, painting, banner, pennant, placard, design, identification, description, illustration, or device illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise. For the purpose of removal, signs shall also include all sign structures.
32. Sign Structure. Any structure which supports or is capable of supporting any sign as devised in this code. A sign structure may be a single pole or may or may not be an integral part of the building. Where the sign structure is used as an integrated part of a sign, it shall be counted toward the total allowable gross area.
33. Temporary Sign. A sign which is intended to advertise special events on a temporary basis provided such signs are posted not more than thirty (30) days before said event and removed within fifteen (15) days after the event.
34. Swinging Sign. A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
35. Under Marquee Sign. A lighted or unlighted display attached to the underside of a marquee protruding over public or private sidewalks or right-of-way.



36. Wall Sign. A sign which is in any manner affixed to any exterior wall of a building or structure and which projects not more than eighteen (18) inches from the building or structure wall and which does not exceed more than six (6) feet above the parapet, eaves, or building façade of the building on which it is located or a sign which is painted on any exterior wall.
37. Window Sign. A sign installed on a window for purposes of viewing from outside the premises.
38. Zoning of Land Use. The land use district as established by the Town Board.

#### E. GENERAL REQUIREMENTS

1. Scope. This ordinance pertains to and regulates all billboards and signs in the Town of Eaton.
2. Animated Signs in Residential District. No animated signs shall be erected or maintained in any residential land use district. No animated signs shall be erected or maintained closer than two hundred (200) feet from any residential zoned parcel on which there exists structures used for residential purposes.
3. Marquee Signs. Marquee signs may be placed on, attached to, or constructed in a marquee. Marquee signs shall be limited to the size of the marquee.
4. Building Façade Signs. Copy area of a building façade facing shall not exceed forty (40) percent of the background facing to which it is applied.
5. Wall Signs. Background area of wall signs shall not exceed thirty (30) percent of the building façade or four (4) square feet per lineal foot of the elevation upon which they are placed, whichever is greater.
6. Multiple-Copy Signs.
  - a. Copy area of multiple-copy signs not to exceed thirty (30) percent of background to which applied.
  - b. Principal identification sign is a sign which identifies only the name of the business and the principal product or service. These signs are not subject to any limitation of copy area to background.
7. Ground Signs.

- a. Such signs shall be located back of the right-of-way line a distance equal to and not less than the height of the sign.
  - b. A ground sign, any part of which is located in the building setback of the right-of-way, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height. Only one (1) ground sign shall be allowed in the front building setback per zoning parcel.
  - c. Where the supporting sign structure is used as an integrated part of a sign, it shall be counted toward the total allowable gross area.
8. Maximum Area of Signs. The maximum area of signs shall be the accumulation of the area of all signs located on a parcel of record. The maximum area of signs may differ according to the zoning classification of a lot.
9. Roof Signs. Roof signs are only allowed in the Business and Industrial Districts and must meet the following requirement:
  - a. The highest point of the sign shall not exceed the highest point of the building on which the sign is situated.
10. Stability. Signs shall be constructed so that they will withstand a wind pressure of at least thirty (30) pounds per square foot surface and will otherwise structurally be safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a menace to persons or property. No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action.
11. Illumination.
  - a. All electrical signs shall conform to state electrical requirements.
  - b. All sign lighting shall be so designed, located, shielded, or hooded so as to prevent the casting of glare or direct light upon adjacent roadways, surrounding properties, or into the sky, except for flag lights.
12. Maintenance of Signs. All signs and sign structures shall be properly maintained and kept in a neat and proper state of repair and appearance.
13. Removal of Obsolete, Non-Maintained, or Abandoned Signs. All signs, including those painted on a building, which no longer serve the purpose for which they were intended or are not maintained or which have been abandoned, shall be removed by the business or property owner within ninety (90) days after the receipt of removal notice, or upon failure of such removal, the Town shall remove such signs at the expense of the property owner.

14. Location. All ground, and temporary signs shall be located within the property lines.
15. No sign facing any Residential or Agricultural District shall be closer than twenty-five (25) feet to that district line.

F. PERMITS REQUIRED

1. It shall be unlawful for any person to erect, construct, enlarge, or structurally modify any sign, temporary or permanent, or cause the same to be done in the Town of Eaton without first obtaining a sign permit for each such sign from the Zoning Administrator, as required by this ordinance. Permits shall not be required for a change of copy on any sign nor for the repainting, cleaning, and other normal maintenance and repair of the sign and sign structure.
2. Application for a Permit. Application for a permit shall be filed with the Zoning Administrator upon forms provided by the Zoning Administrator. The applicant shall provide all information required on the application for the permit.
3. Permit Fees. Application for permit shall be filed with the Zoning Administrator, together with a permit fee for each sign, in accordance with the following schedule, provided, however, that the minimum fee for a permit shall not be less than fifteen dollars (\$15) for any sign or for an amount based on area, as follows:
  - a. Signs visible from a public street shall be calculated at a basis of twenty cents (20¢) per square foot. The calculation of the area of a ground sign shall be based on gross area of one (1) face of the sign. The area of wall signs shall be the gross area, as calculated in this ordinance.

G. SIGNS NOT REQUIRING A PERMIT

1. Construction Signs. Two (2) construction signs per construction site, not exceeding one hundred (100) square feet in area each, shall be confined to the site of construction and shall be removed thirty (30) days after completion of construction or prior to occupancy, whichever is sooner.
2. Directional and Instructional Non-Electric Signs. Directional and instructional non-electric signs which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed eight (8) square feet each in area and do not in any way advertise a

business. This includes, but is not limited to, such signs as those identifying restrooms, telephones, parking areas, entrances, and exits.

3. Non-Illuminated Emblems. Non-illuminated emblems or insignia of any nation or political subdivision, profit or non-profit organization, not exceeding four (4) square feet in gross area.
4. Government Signs. Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger and aid to service or safety which are erected by or on the order of a public officer in the performance of his/her public duty.
5. House Numbers and Name Plates. House numbers and name plates not exceeding two (2) square feet in area for each residential, commercial, or industrial building.
6. Interior Signs. Signs located within the interior of any building or structure which are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical, or material specifications of this ordinance.
7. Memorial Signs and Plaques. Memorial signs or tablets, names of buildings, and date of erection which are cut into masonry surface or inlaid so as to be part of a building or when constructed of bronze or other noncombustible material not more than four (4) square feet in area.
8. No Trespassing or No Dumping Signs. No trespassing and no dumping signs not to exceed one-and-one-half (1-1/2) square feet in area per sign.
9. Public Notices. Official notices posted by public officers or employers in the performance of their duties.
10. Public Signs. Signs required as specifically authorized for a public purpose by any law, statute, or ordinance.
11. Political and Campaign Signs. Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said signs are subject to the following regulations:
  - a. Said signs may be erected not earlier than thirty (30) days prior to the primary election and shall be removed within fifteen (15) days following said general election.
  - b. Each sign shall not exceed sixteen (16) square feet in nonresidential zoning districts or eight (8) square feet in residential zoning districts.

- c. No sign shall be located within fifteen (15) feet of the public right-of-way at a street intersection or over the right-of-way.
12. Real Estate Signs. One (1) real estate sales sign on any parcel, provided such sign is located entirely within the property to which the sign applies and is not directly illuminated. Corner lots shall be permitted up to two (2) real estate signs, with one fronting on each street.
    - a. In residential districts, such signs shall not exceed six (6) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
    - b. In all other districts, such signs shall not exceed thirty-two (32) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
  13. Temporary Window Signs. In business, and industrial districts, the inside surface of any ground floor window may be used for attachment of temporary signs. The total area of such signs, however, shall not exceed fifty (50) percent of the total window area and shall not be placed on door windows or other windows needed to be clear for pedestrian safety.
  14. On-Premise Symbols or Insignia. Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historic agencies.
  15. On-Premise Temporary Signs. Temporary signs not exceeding four (4) square feet in area pertaining to drives or events of civic, philanthropic, educational, religious organizations, provided such signs are posted not more than thirty (30) days before said event and removed within fifteen (15) days after the event.
  16. Vehicular Signs. Truck, bus, trailer, or other vehicle while operating in the normal course of business, which is not primarily the display of signs.
  17. Neighborhood Identification Signs. In any zone, a sign, masonry wall, landscaping, or other similar material and feature may be combined to form a display for neighborhood or subdivision identification provided that the legend of such sign or display shall consist only of the neighborhood or subdivision name.
  18. Awnings. Awnings with signs consisting of one (1) line of copy upon the border of the awnings.
  19. Home Occupation Signs. A sign, not exceeding two (2) square feet in size, which is located on the property to which the sign pertains.

## H. SPECIFIC ZONING DISTRICT REQUIREMENTS

### 1. Residential, Agriculture, and Exclusive Agricultural Districts.

- a. In the Residential, Agriculture, and Exclusive Agricultural Districts, all signs are prohibited except for those listed as not requiring a permit under Article XXI (G) and the following non-flashing, non-illuminated, permanent signs under the conditions specified.
  - (1) Nameplate Signs. Nameplate signs, not to exceed two (2) square feet, located on the premises. Corner lots shall be permitted two (2) such signs, one (1) facing each street.
  - (2) Agricultural signs pertaining to the products of the agricultural premises not to exceed thirty-two (32) square feet in area for one (1) farm. Height of this respective sign shall not exceed eight (8) feet. Two (2) such signs shall be permitted per farm.
  - (3) Bulletin Boards. Bulletin boards or similar devices for churches and religious institutions shall not exceed thirty-two (32) square feet in area located on the premises. Height of said sign shall not exceed eight (8) feet and may not be located within the building setback lines.
  - (4) Memorial Signs. Memorial signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a building.
  - (5) Official Signs. Official signs, such as traffic control, parking restrictions, information, and notices.
  - (6) Home Occupation Signs. A home occupation sign shall not exceed two (2) square feet in size and shall be located on the property to which the sign pertains.
- b. Safety Standards. All outdoor advertising structures, post signs, accessory signs, or advertising statuary which are declared to be a traffic hazard by the Zoning Administrator shall be relocated or rearranged in accordance with safety standards. A sign in direct line of vision of any traffic signal or from any point in the traffic lane shall not have red, green, or amber illumination nor be illustrated in such a way so as to interfere with vision of said signal nor be illustrated in such a way as to be distracting.
- c. Mounting. All signs shall be mounted in one of the following manners:
  - (1) Flat against a building or wall.
  - (2) Otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.

- d. Height. No sign shall exceed a height of twenty (20) feet.
- e. Ground Signs. Any ground sign greater than three (3) feet in height and supported by one or more poles shall have at least ten (10) feet of under-clearance.
- f. Number of Ground Signs. One (1) ground sign shall be allowed per parcel.
- g. Setbacks. Signs shall meet all yard requirements of the zoning district, excepting those instances as set forth in Article XII E. 7. a. or b. of this ordinance.

2. All Business and Industrial Districts.

- a. Projection. In these districts where limitations are imposed by this ordinance of the projection of signs from the face of the wall of any building or structure, such limitations shall not apply to identification canopy or marquee signs indicating only the name of the building or the name of the principal occupant of the building or the principal product available therein, provided that any identification sign located on a marquee or canopy shall be affixed flat to the vertical face thereof.
- b. Safety Standards. All outdoor advertising structures, ground signs, accessory signs, or advertising statuary which are declared to be a traffic hazard by the Zoning Administrator shall be relocated or rearranged in accordance with safety standards. A sign in direct line of vision of any traffic signal or from any point in the traffic lane shall not have red, green, or amber illumination nor be illustrated in such a way so as to interfere with vision of said signal nor be illustrated in such a way as to be distracting.
- c. Mounting. All signs shall be mounted in one of the following manners:
  - (1) Flat against a building or wall.
  - (2) Back to back in pairs so that back of sign will be screened from public view.
  - (3) In clusters in an arrangement which will screen the back of the signs from public view.
  - (4) Otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.

3. B-1 District. In the B-1 District, on-premise business signs are permitted, subject to Article XII (E) and the following conditions:

- a. Area. The gross area in square feet of all signs on a zoning lot shall not exceed three hundred (300) square feet.
- b. Height. No sign shall exceed a height of thirty (30) feet.

- c. Number of Ground Signs. One (1) ground sign shall be allowed per zoning parcel.
  - d. Setbacks. Signs shall meet all yard requirements of the zoning district, excepting those instances as set forth in Article XII C. 8. a. and b. of this ordinance.
4. I-1 District. In the I-1 District, on-premise business signs are permitted, subject to Article XII (E) and the following conditions:
- a. Area. The gross area in square feet of all signs on a zoning lot shall not exceed four hundred (400) square feet.
  - b. Height. No sign shall exceed a height of thirty (30) feet.
  - c. Number of Ground Signs. One (1) ground sign shall be allowed per zoning parcel.
  - d. Setbacks. Signs shall meet all yard requirements of the zoning district, excepting those instances as set forth in Article XII C. 8. a. and b. of this ordinance.

#### I. OFF-PREMISE SIGNS

- 1. All off-premise signs are prohibited in the Town of Eaton regardless of the nature, size, and location, except as provided in Article XXI (G) or through written permission of the Eaton Town Board.
  - a. Any applicant for an off-premise sign not exempted by Article XXI (G) must demonstrate how the proposed off-premise sign(s) is consistent with Town of Eaton Comprehensive Plan goals, objectives, and policies to be considered for written approval by the Eaton Town Board.

#### J. ALTERATION – RELOCATION

No sign in the Town of Eaton shall hereafter be altered, rebuilt, enlarged, extended, or relocated except in conformity with the provisions of this chapter. The changing of movable parts of signs that are designed to be changed or the repainting of display matter in conformity herewith shall not be deemed to be alterations within the meaning of this ordinance.

#### K. NONCONFORMING SIGNS

- 1. Existing signs which become nonconforming upon adoption of this ordinance shall not be remodeled, relocated or changed in size unless such action will make the sign conforming in all respects with this ordinance.



- a. Where a nonconforming sign is destroyed by violent wind, vandalism, fire, flood, ice, snow, or other act of God, it may be reconstructed to the size, location, and use that it had immediately prior to being damaged or destroyed.
2. At any such time as the owner of any building or lot, on which a nonconforming sign(s) is/are located requests Town Board approval for any changes to the use, building or lot, the Town Board may require that such nonconforming sign(s) be removed or made to conform with this ordinance as a condition of approval.

#### L. ABANDONED SIGNS AND DETERIORATED OR DILAPIDATED SIGNS

1. All signs or sign messages shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted or when rental or compensation is no longer provided. If the owner or lessee fails to remove the sign or sign message, the Zoning Administrator shall give the owner sixty (60) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative may remove the sign at cost to the sign owner.
2. The Zoning Administrator shall cause to be removed any deteriorated or dilapidated signs.

#### M. APPEALS AND VARIANCES

1. The Eaton Board of Appeals shall hear all appeals by any person aggrieved by any actions or decisions of the Zoning Administrator or other Town officer or employee charged with implementing the provisions of this Ordinance where it is alleged an error has been made in any factual determination or application of any provision of this Ordinance or any applicable state or federal law. For purposes of this section, an aggrieved person is an applicant for a sign permit, a holder of a sign permit or any person who is alleged to have violated any provision of this ordinance.
2. The Eaton Board of Appeals may, in its judgment, authorize such variance from the terms of this Ordinance, provided that it shall not have the effect of permitting in any district uses prohibited in such district, and as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, substantial justice done, and the purpose of this ordinance maintained.

- a. Variances shall meet the requirements of Article XVI (H) and (I), Eaton Code of Ordinances.

## N. PENALTY

The remedies in this section for violations or for failure to comply with the provisions of this code, whether civil, criminal, or for sign removal, shall be cumulative and shall be in addition to any other remedy provided by law.

1. Remedies. Violation or failure to comply with the provisions of this section is unlawful.
  - a. Any sign erected without a permit shall be removed at the owner's expense or brought into compliance within thirty (30) days of written notification of the Zoning Administrator. Signs erected without a permit shall be subject to double the permit fee to bring the sign into compliance. In the event that the owner does not remove or bring the sign into compliance, the Zoning Administrator may order removal of the sign.
  - b. Any person who violates any provision of this section shall, upon conviction, forfeit not less than ten (10) dollars nor more than two hundred (200) dollars together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense.
  - c. This section shall not preclude the Town from maintaining any appropriate action to prevent or remove a violation of this section.

## **ARTICLE XIII: OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **A. GENERAL REQUIREMENTS – OFF-STREET PARKING**

1. **Location.** All parking spaces required to serve buildings or uses erected or established after the effective date of this ordinance shall be located on the same zoning lot as the building or use served, except that parking spaces to serve businesses or industrial buildings or uses may be located within three hundred (300) feet, if such spaces are permitted in such zone.
  - a. Parking areas may be located in any yard space for commercial and industrial uses and in any yard but the front yard for other uses but shall not be closer than ten (10) feet to any street line. No parking space or areas shall be permitted within five (5) feet of a property line in a side yard.
  - b. Not more than four (4) motor driven vehicles, including not more than one (1) commercial motor vehicle of not more than five (5) tons capacity, shall be stored or kept in any private garage for each family residing on the premises.
  - c. Where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory.
2. **Size.** Each required off-street parking space shall be at least ten (10) feet in width measured at right angles to the center of car as parked and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, or columns. Aisles shall not be less than twenty-four (24) feet wide for ninety (90) degree parking, eighteen (18) feet wide for sixty (60) degree parking, fifteen (15) feet wide for forty-five (45) degree parking (angle shall be measured between center line of parking space and center line of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the length of the parking space shall be increased to twenty-three (23) feet.
3. **Access.** All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
4. **Collective Provision.** Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements. No parking spaces or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Plan Commission.

5. Computation.

- a. When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction of one-half (1/2) or less may be disregarded, while a fraction in excess of one-half (1/2) shall be counted as one (1) parking space. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.
- b. Where a building permit has been issued prior to the effective date of this ordinance and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this ordinance.
- c. When the intensity of use of any building, structure, or premises is increased through the addition of dwelling units, floor areas, seating capacity, or other units of measurement specified herein for the required parking or loading facilities as required herein, parking shall be provided for such increase in intensity to use and for at least fifty (50) percent of any existing deficiency in parking or loading facilities.

6. Utilization.

- a. Required accessory off-street parking facilities provided for uses listed in Part B of this Article shall be solely for the parking of passenger automobiles of patrons, occupants, or employees of such uses, except as may otherwise be provided for the parking of trucks in the granting of conditional uses.
- b. None of the off-street facilities as required in this ordinance shall be required for any existing building or use unless said building or use shall be enlarged, in which case the provisions of this ordinance shall apply only to the enlarged portion of the building or use.

7. Design and Maintenance.

- a. Plan. Except for residential uses, the design of parking lots or areas shall be subject to the approval of the Zoning Administrator.
- b. Drainage and grade. All parking areas shall have adequate drainage and shall be provided with bumper guards where required by grade.
- c. Surfacing and marking of parking lots. All off-street parking lots shall be provided with blacktop, concrete, or gravel surfacing and shall be maintained at all times in such a manner as to prevent the release of dust and to be free of dust, trash, and debris.

- d. Screening and landscaping. All open automobile parking areas containing more than three (3) parking spaces shall be effectively screened on each side adjoining or fronting any property situated in a Residential District or any institutional premises by a wall or fence.
- e. Lighting.
  - (1) Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance.
  - (2) All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately from the hours of sunset to sunrise when the use is in operation. Adequate shielding shall be provided by commercial uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
- f. Signs. Accessory signs shall be permitted on parking areas in accordance with the provisions specified under the sign ordinance.
- g. Sales, repair, and service. No sale, storage, repair work, or servicing of any kind shall be permitted in any parking facility, except by permission of the Town Board.

8. Driveways.

All driveways shall meet the requirements of the Town ordinance for Driveway Permits and Temporary Access Permits.

- a. Maximum curb opening at thirty-four (34) feet.
- b. Driveways shall be not less than twenty-five (25) feet apart at the curb line.
- c. In the case of a corner lot, access to the principal street shall be restricted to one (1) driveway unless extraordinary circumstances are evident.
- d. All driveways are means by which vehicles travel between the street and approved parking spaces and are not to be considered for approved parking spaces.
- e. All driveways shall include a culvert having a minimum diameter of 18 inches (no plastic culverts allowed) with a 16-foot to a 24-foot top surface driveway width and a 3 to 1 side slope at both ends of the culvert.

9. Increased Use.

- a. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity, or other units of measurement, required parking or loading facilities, as required herein, shall be provided for

such increase in intensity of use and for at least fifty (50) percent of any existing deficiency in parking or loading facilities.

10. Changed Use. Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be required for such new use.
11. Damage or Destruction. For any conforming or legally nonconforming building or use, which is in existence on the effective date of this ordinance, which subsequently thereto is damaged or destroyed by fire, collapse, explosion, or other cause and which is reconstructed, re-established, or repaired, off-street parking or loading facilities shall be provided as required by this ordinance.
12. Control of Off-Site Parking Facilities. In cases where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession may be either by deed or long-term lease, the term of such lease to be determined by the Zoning and Planning Board, and such deed or lease shall be filed with the Register of Deeds of Brown County. The deed or lease shall require such owner of his/her heirs and assigns to maintain the required number of parking facilities for the duration of the use served or of the deed or lease, whichever shall terminate sooner.
13. Submission of Plot Plan. Any application for a building permit or for any occupancy certificate where no building permit is required shall include therewith a plot plan drawn to scale and fully dimensioned showing any off-street parking or loading facilities to be provided in compliance with this ordinance.
14. Handicapped Parking Requirements. All off-street parking lots shall adhere to Wisconsin Statutes 346.503 and 346.56 as to requiring handicapped parking.
15. Existing Parking Facilities. Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same lot as the building or use served shall not hereafter be reduced below the requirements for a similar new building or use under the provisions of this ordinance.

## B. SPECIFIC REQUIREMENTS – OFF-STREET PARKING

1. Apartment Hotels. One and one-half (1-1/2) parking spaces shall be provided for each dwelling unit or lodging room and additional space as shall be required for supplemental uses.
2. Educational (Non-Boarding) and Cultural Institutions.
  - a. Elementary and middle schools. One (1) parking space shall be provided for each employee and adequate visitor space to be determined by the Board of Education.
  - b. Senior high schools. One (1) parking space shall be provided for each employee, and one parking space shall be provided for each five (5) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period.
  - c. Public libraries, art galleries, museums, and aquariums. One (1) space shall be provided for each two (2) employees plus additional parking space equal to fifty (50) percent of capacity in persons.
  - d. School auditoriums and gymnasiums. One (1) parking space shall be provided for each eight (8) seats.
  - e. Stadiums and grandstands. One (1) parking space shall be provided for each eight (8) seats.
  - f. Colleges, junior colleges, and universities. One (1) parking space shall be provided for each employee, and one (1) parking space shall be provided for each five (5) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period.
  - g. Fraternities, sororities, and dormitories in conjunction with colleges, junior colleges, and universities. One (1) parking space shall be provided for each three (3) active members or dormitory residents plus one (1) parking space for the manager.
3. Health and Medical Institutions.
  - a. Convalescent homes, nursing homes, rest homes, institutions for the care of the aged and for children, and sanitariums. One (1) parking space shall be provided for each four (4) beds plus one (1) parking space for each two (2) employees (other than staff doctors) plus one (1) parking space for each doctor assigned to the staff.
  - b. Hospitals. One (1) parking space shall be provided for each four (4) hospital beds plus one (1) parking space for each two (2) employees and doctors assigned to the staff.
  - c. Group Homes. One (1) parking space for each four (4) occupants authorized and one (1) parking space for each employee on the maximum shift.

4. Multiple-Family Dwellings. One and one-half (1-1/2) parking spaces shall be provided for each dwelling unit. In addition, there shall be provided one (1) guest parking space for each four (4) units in all multiple dwellings or fractions thereof.
5. Philanthropic and Charitable Institutions. One (1) parking space shall be provided for each employee, plus spaces adequate in number, as determined by the Plan Commission, to serve the public.
6. Planned Developments. Parking spaces shall be provided on the basis of the required spaces for each individual use.
7. Public Utility and Service Uses. One (1) parking space shall be provided for each two (2) employees plus spaces adequate in number, as determined by the Plan Commission, to serve the public.
8. Radio and Television Stations. One (1) parking space shall be provided for each two (2) employees.
9. Religious Institutions.
  - a. Churches, chapels, temples, and synagogues. One (1) parking space shall be provided for each four (4) seats.
  - b. Convents, seminaries, monasteries, rectories, parsonages, parish houses, and religious retreats. Parking space shall be provided in adequate number, as determined by the Plan Commission, to serve persons employed or residing on the premises, as well as for the visiting public.
10. Recreational.
  - a. Stadiums, ballparks, and other outdoor sports arenas. One (1) parking space for each four (4) permanent seats. Such parking shall be located no farther than eight hundred (800) feet to the nearest corner of the property on which the place of assembly is located.
  - b. Theaters, indoor sports arenas, and auditoriums other than those incidental to schools. One (1) parking space for each four (4) seats plus one (1) additional parking space for each two (2) employees on the maximum shift.
  - c. Bowling alleys. Four (4) parking spaces per alley plus additional requirements for other such uses as eating and drinking establishments.



- d. Dance halls, skating rinks, lodge halls, exhibition halls without fixed seats. One (1) parking space for each eighty (80) square feet of usable floor area.
  - e. Golf driving ranges or shooting ranges. One (1) parking space for each driving tee or shooter station.
  - f. Miniature courses or putting greens. Two (2) parking spaces for each golf hole.
  - g. Game and athletic courts. Two (2) parking spaces for each court.
  - h. Golf courses. Eight (8) parking spaces per hole and one (1) for each thirty-five (35) square feet of gross floor area in principal building connected with the course plus one (1) for each two hundred (200) square feet of gross floor area for adjoining accessory commercial uses.
  - i. Swimming pools (other than those used in accessory uses with residential and commercial uses). One (1) parking space for every one hundred (100) square feet of pool area, and one (1) parking space for each employee on the maximum shift. Customer pickup and drop-off zone shall be provided on a curbed directional driveway with the parking zones behind the street setback area, and said parking zone not to interfere with the other parking requirements.
11. Rooming Houses. One and one-half (1-1/2) parking spaces shall be provided for each rooming unit plus one (1) space for the owner or manager.
  12. Single-Family Detached Dwellings. Two (2) parking spaces shall be provided for each dwelling unit not to be located within the front yard setback.
  13. Two-Family Dwellings. Two (2) parking spaces shall be provided for each dwelling unit not to be located within the front yard setback.
  14. Daycare Centers and Nursery Schools. One (1) parking space for each eight (8) children authorized and one (1) parking space for each staff member. However, such parking requirement for children authorized may be reduced to one (1) parking space per ten (10) children if a customer pickup and drop-off zone is provided on a curved directional driveway with the parking zones behind the street setback area, and said parking zone not to interfere with the other parking requirements.
  15. Daycare Homes, Family. One (1) parking space for each eight (8) children authorized and one (1) parking space for each staff member. However, if the staff resides in the home, the required spaces and driveway standards of a single-family home may apply, upon the discretion of the Plan Commission.

16. Commercial and Retail Service Users.

- a. Animal hospital and kennels. Two (2) parking spaces shall be provided for each employee.
- b. Dry cleaning establishments, laundermats, and receiving stations. One (1) parking space shall be provided for each two (2) employees and every two automatic self-service units.
- c. Funeral homes and mortuaries. One (1) parking space for each five (5) seats or one hundred (100) square feet of floor area for each chapel or parlor, whichever is greater.
- d. Governmental buildings, United States, state, county, and city. One (1) parking space for each two (2) employees plus such additional space deemed necessary by the Plan Commission.
- e. Hotels. One (1) parking space shall be provided for each lodging room plus one (1) parking space for each employee plus additional spaces for affiliated uses as required by this ordinance.
- f. Medical and dental clinics. Three (3) parking spaces shall be provided for each staff member and regularly-visited doctor.
- g. Motels and rooming units. One and one-half (1-1/2) parking spaces shall be provided for each dwelling unit or lodging room plus one (1) parking space for each employee.
- h. Planned development. Parking facilities shall be provided on the basis of the required spaces for each individual use.
- i. Restaurants, taverns, supper clubs, cocktail lounges, and night clubs. Parking spaces equal in number to fifty (50) percent of the capacity in persons shall be provided plus one (1) space for each employee.
- j. Retail stores and shopping centers. One (1) parking space shall be provided for each one hundred fifty (150) square feet of floor area.
- k. Schools – music, dance, or business. One (1) parking space shall be provided for each two (2) employees plus one (1) space for each five (5) students.
- l. Theaters, indoor. Parking spaces equal in number to fifty (50) percent of the seating capacity in persons shall be provided.
- m. Banks, savings and loan associations, and other financial institutions. One (1) space for each two hundred (200) square feet of gross floor area plus one (1) parking space per employee on the maximum shift.
- n. Drive-in banks, savings and loan associations, and other financial institutions. Six (6) spaces for one (1) drive-in window plus four (4) spaces for each additional drive-in window. In addition, one (1) parking space per employee on the maximum shift.
- o. Barber shops, beauty salons, and other similar personal service use. Two (2) spaces per operator's station and one (1) space per employee on the maximum shift.

- p. Bus and motor coach depot or station. One (1) space per employee during maximum shift plus six (6) spaces per bus at peak loading capacity.
- q. Bus and motor coach service garage. One (1) space per employee on the maximum shift plus suitable area for servicing and parking bus and motor coaches.
- r. Carryout restaurants, confectionaries, and drive-in restaurants. One (1) parking space per fifty (50) square feet of net patron floor area, excluding restrooms, plus one (1) space per employee on the maximum shift plus six stacked parking spaces for each vehicle service window.
- s. Automobile service station uses and automobile wash facilities. One (1) space per employee on the maximum shift and two (2) spaces per service stall or bay plus three (3) stacked spaces per each fueling position or car washing staff.
- t. Motor vehicles, machinery sales, and repair garage. One (1) parking space for each four hundred (400) square feet of floor area plus one (1) space per employee on the maximum shift.
- u. Shops repairing household appliances and equipment. One (1) parking space per two hundred (200) square feet of floor area plus one (1) space per employee on the maximum shift.
- v. Furniture and large appliance store. One (1) parking space for each five hundred (500) square feet of gross floor area plus one (1) parking space per employee on the maximum shift.
- w. Outdoor sales areas, such as for new or used automobile, boat, or trailer sales, lumber or building material yards, plant nurseries, or similar uses. One (1) parking space for each one thousand (1,000) square feet of uncovered sales area plus one (1) parking space per employee on the maximum shift.
- x. General retail sales, including department stores not located in a shopping center. One (1) parking space per two hundred (200) square feet of gross floor area plus one (1) per employee on the maximum shift.
- y. Offices. Business, governmental, and professional offices (except healthcare but including counseling services). One (1) parking space shall be provided for each three hundred (300) square feet of floor area for the first eight thousand (8,000) square feet of gross floor area. One (1) additional parking space shall be furnished for each seven hundred (700) square feet or fraction thereof for the next twelve thousand (12,000) square feet of total floor area, and one (1) additional parking space shall be provided for each one thousand (1,000) square feet or fraction thereof for total area in excess of twenty thousand (20,000) square feet. One (1) parking space shall also be provided for each staff member or employee on the maximum shift.

- z. Cultural and community centers, such as libraries, art galleries, and museums. One (1) parking space for every three hundred (300) square feet or visitor use area plus one (1) parking space for each one and five tenths (1.5) employees on the maximum shift.
- aa. Businesses (not listed above). One (1) parking space for each two (2) staff members or employees plus such additional parking space as may be required by the Plan Commission for customers or users.

17. Industrial Districts and Uses, Unless Specifically Mentioned. Off-street parking spaces accessory to uses allowed in the Industrial Districts shall be provided in accordance with the following minimum requirements.

- a. For the uses listed hereunder, one (1) parking space shall be provided for every one thousand (1,000) square feet of building area or for every two (2) employees, whichever constitutes the greater number of stalls:
  - (1) Air, motor, railroad, water freight terminals, and repair shops.
  - (2) Contractors' shops and yards.
  - (3) Greenhouses, wholesale.
  - (4) Mail order houses.
  - (5) Radio and television stations.
  - (6) Sewage treatment plants – municipal.
  - (7) Warehouses.
  - (8) Manufacturing establishments.
  - (9) Printing and publishing establishments.
  - (10) Any establishments for production, fabrication, processing, cleaning, servicing, testing, repair, or storage of materials, goods, or products.
  - (11) Building materials sales yards.
- b. In the Industrial District and for any industry, one (1) space for every one thousand (1,000) square feet of building area or for every two (2) employees, whichever constitutes the greater number of stalls. Industries operating more than one (1) shift must have additional spaces to provide for change of personnel at shift-change time.

### C. OFF-STREET LOADING

In all districts, 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 into or from any public way.

## **ARTICLE XIV: ARTIFICIAL LAKES**

The following regulations shall apply to all artificial lakes hereinafter constructed or developed within the Town of Eaton.

### **A. LOCATION**

Artificial lakes shall be allowed as conditional uses in the Agricultural zone.

### **B. PERMIT**

1. The property owner, developer, or his/her assigned agent shall make application for conditional use permit to the Town Zoning and Planning Board prior to construction.
2. The Town Zoning and Planning Board shall submit a written recommendation to the Town Board.
3. The Town Board shall reach a decision within sixty (60) days from the filing of the completed application form.
4. The Town Zoning and Planning Board shall review and approve the site plan after the Town Board has issued the conditional use permit before any excavating can be performed by the applicant.

### **C. SITE PLANS**

1. A map drawn at a minimum scale of one (1) inch equals two hundred (200) feet showing the proposed lake size and depth and the adjoining property within five hundred (500) feet of the site.
2. Layout of proposed residential lots and other buildings, if applicable.
3. The type of sanitary facilities to be installed if residential development is to take place.
4. Source of water supply for residential dwellings and water level maintenance in the lake.
5. Surface drainage sources and topography.
6. Proposed roadways.

### **D. OTHER REQUIREMENTS**

1. The constructed lake shall meet the requirements of the Brown County Shoreland/Floodplain Zoning Ordinance.
2. Artificial lakes constructed adjacent to a navigable body of water shall comply with the regulations set forth by the Wisconsin Department of Natural Resources.
3. The groundwater table in the surrounding area and adjacent to the lake shall be protected.
4. State permits shall be required if high capacity wells are drilled on the site.
5. The Division of Environmental Health requirements shall be met to ensure property safety of swimmers.
6. The perimeter of the lake shall be landscaped and seeded within six (6) months after completion of the excavation.
7. A performance bond shall be filed with the Town Board prior to the start of construction. Amount of bond per acre shall be specified by the Town Board of Eaton.

## **ARTICLE XV: EARTH EXCAVATIONS**

The following regulations shall apply to all future and existing excavations of sand, gravel, stone, loam, dirt, and other earth products within the Town of Eaton where applicable.

### **A. LOCATION**

1. Earth excavations shall be allowed as a conditional use in the Agriculture District. Only non-metallic mining operations may be allowed as a conditional use in the Agriculture – Farmland Preservation district, as allowed under Section 91.46(6) Wis. Stats.

### **B. GENERAL**

1. All excavations of sand, gravel, clay, silt, loam, rock, stone, muck, dirt, soil, and other earthen materials, including, but not limited to, sand pits, gravel pits, and rock quarries, exclusive of artificial lakes, shall come under the jurisdiction of this ordinance.
2. All existing sites of excavation shall comply with this ordinance prior to any additional expansions or alterations of the existing site beyond the boundaries of the parcels of record on which excavation is taking place as of the date of the adoption of this ordinance.

### **C. EXEMPTIONS**

The following uses shall be exempt from the provisions of this ordinance.

1. Excavation and removal of less than five hundred (500) cubic yards over a period of one (1) year from any single parcel of land recorded in the Brown County Register of Deeds Office.
2. Necessary foundation and trench excavation only in connection with work on the premises for which a building permit has been issued.
3. Normal agricultural activities.
4. Landscaping or site preparation for building use.

### **D. PERMIT**

1. Application for a conditional use permit to excavate or remove earth material shall be made to the Eaton Town Zoning and Planning Board by the property owner or his assigned agent. Forms shall be provided by the Town of Eaton. The Town Zoning and Planning Board shall submit a

written recommendation to the Town Board. The Town Board shall reach a decision within sixty (60) days from the filing of the completed application form.

2. The application shall contain the required information as specified in Subsection D, Section XVI of this ordinance prior to the issuance of an excavation permit.
3. The applicant shall provide the Town Zoning and Planning Board with a site plan. The Town Zoning and Planning Board must review and approve the site prior to any excavation being allowed.
4. Following submittal and approval of the excavation plan, the Town Zoning Administrator shall issue the permit. The permit shall be valid for one (1) year upon issuance.
5. Upon expiration of the permit, the Town Zoning and Planning Board shall inspect the site before reissuing the permit. If the regulations have been complied with, the permit shall be reissued.

#### E. SITE PLANS

The following information shall be required on a site plan prior to issuing an excavation permit.

1. A map showing the location of the premises and the adjoining properties within five hundred (500) feet. The map shall be drawn at a scale not smaller than one (1) inch equals two hundred (200) feet.
2. Contour intervals of the proposed site at intervals of twenty (20) feet when available.
3. Existing and proposed drainage patterns of the site.
4. Proposed regrading and revegetation of the site after completion of the excavating operation.
5. Proposed truck and machinery access to the site.
6. Types and location of temporary or permanent building to be erected on the site.
7. Approximate amount of earth material to be excavated or removed at the site.



8. Approximate number of trucks and other types of machinery to be used at the site.
9. Designated hours of operation.

F. TRUCKS AND MACHINERY

1. No fixed machinery shall be erected or maintained within two hundred (200) feet of any property or street line.
2. Truck access to the excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding property.

G. MATERIAL HANDLING

1. No excavation shall take place within fifty (50) feet of any property line or one hundred (100) feet of the street line.
2. No screening, sifting, washing, crushing, or other forms of processing shall be conducted upon the premises unless it is located more than five hundred (500) feet from a residential dwelling.

H. OTHER REQUIREMENTS

1. At all stages of operations, proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties.
2. The premises shall be excavated and graded in conformity with the plan as approved. Any deviation from the plan shall be cause for the Town Board to revoke the permit upon the recommendations of the Town Zoning and Planning Board.
3. When excavating and removal operations are no longer used, as determined by the Town Zoning and Planning Board, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of 3-1 (horizontal-vertical) unless waived by the Zoning and Planning Board. A layer of arable topsoil capable of supporting perennial grasses shall be spread over the excavated area except exposed rock surfaces to a minimum depth of four inches. The area shall be seeded with a perennial grass capable of survival in this climate and maintained until a uniform growth is established.
4. If the excavation site shall fall within a county floodplain, shoreland, or conservancy zone district, the regulations as set forth in the Shoreland-Floodplain Protection Ordinance for Brown County shall apply.

5. Town Zoning and Planning Board members shall be allowed on the premises during scheduled operating hours for inspection purposes.
6. Any violation of this section shall be subject to the regulations of the Penalty Clause in Article XIX Violations and Penalties.
7. A performance bond of \$1,000 per acre shall be required of the excavator.

## **ARTICLE XVI: ADMINISTRATION AND ENFORCEMENT**

This section of the ordinance shall set forth the requirements to adequately provide and develop the proper administration and enforcement of this ordinance.

### **A. GENERAL**

1. This ordinance shall provide for the position of Zoning Administrator and Zoning and Planning Board.
2. This section shall provide the authority and necessary requirements for issuance of land use permits and occupation permits, variances, appeals, amendments, conditional uses, fees, and penalties.

### **B. ZONING ADMINISTRATOR**

The Town Board of Eaton shall appoint a Zoning Administrator. It will be the primary responsibility of the Zoning Administrator to administer and enforce this ordinance with the assistance of such other persons as the Town Board may direct. The Town of Eaton Zoning Administrator shall have the following responsibilities and duties:

1. Issue all rezoning certificates and make and maintain records thereof.
2. Conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this ordinance.
3. Provide and maintain a public information bureau relative to all matters arising out of this ordinance.
4. Forward to the Zoning and Planning Board all applications for conditional uses and for amendments to this ordinance that are initially filed with the Office of the Zoning Administrator.
5. Forward to the Zoning and Planning Board applications of appeals, variances, conditional uses, amendments, or other matters on which the Zoning and Planning Board is required to pass under this ordinance.
6. Maintain permanent and current records of this ordinance, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, and applications thereof.
7. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance and make reports of recommendations to the Town Zoning and Planning Boards.

8. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he shall consult with the Town Board and only with its advice and consent shall thereafter notify, in writing, the person responsible for such violation and ordering the action necessary to correct it.

#### C. BUILDING INSPECTOR

The Town Board of the Town of Eaton shall appoint a building inspector. The primary duty of the building inspector is to issue building permits for one- and two-family dwellings. The Town of Eaton Building Inspector shall have the following responsibilities and duties:

1. Issue one- and two-family new construction building permits.
2. Complete the State of Wisconsin required building permit forms.
3. Perform inspections to ensure compliance with state building and construction codes.
4. Maintain a complete record of completed inspections, building permits, land use permits, and certificates of occupancy.
5. Cite property that is not in compliance with the requirements of this ordinance.
6. Forward to the Town Board instances of noncompliance with the requirements of this ordinance.

#### D. BUILDING PERMIT

1. No building or addition thereto constructed after the effective date of this ordinance and no addition to a previously existing building shall be occupied and no land vacant on the effective date of this ordinance shall be used for any purpose until a building permit has been issued by the Town Zoning Administrator or the Town Building Inspector. No change in a use shall be made until a building permit has been issued by the Town Zoning Administrator or the Town Building Inspector. Every building permit shall state that the use complies with the provisions of this ordinance.
2. Application for said building permit shall be made by writing to the Eaton Town Building Inspector for one- or two-family dwellings or to the Eaton Town Zoning Administrator for all other required building permits. Application shall be made by the landowner or his/her authorized agent.

3. Application for a building permit shall be deemed to be an application for an occupancy certificate, as well.
4. All applications for a land use permit shall be accompanied by a location sketch in duplicate, drawn to scale, showing the location, actual shape, and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or building as may be necessary to determine and provide for the enforcement of this ordinance.
5. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.
6. Except as otherwise provided in this ordinance, the Zoning Administrator shall issue or refuse to issue a land use permit within a reasonable time after receipt of an application therefore. Refusal to issue a land use permit shall be given in writing with the reasons for such refusal.
7. A building or land use permit shall expire one (1) year after issue. A building or land use permit heretofore issued shall expire one (1) year after the effective date of this ordinance.
8. A building or land use permit applied for while there is pending a proposed change in the zoning ordinance shall not be issued unless it fully complies with the existing ordinance and the proposed change. A building or land use permit issued in conformity with this ordinance shall remain effective despite a modification of the zoning ordinance within the six (6) month period after its issue.

#### E. CERTIFICATE OF COMPLIANCE

1. No vacant land shall be occupied or used and no building hereafter erected, altered, or moved shall be occupied until a certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof are in conformity with the provisions of this ordinance. Such certificate shall be applied for when application is made for a land use permit and shall be issued within ten (10) days after the completion of the work specified in such land use permit application but only if the building or premises and the proposed use thereof conform with all the requirements of this ordinance.

2. Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary Certificate of Compliance for part of a building.
3. Upon written request from the owner, the Building Inspector shall issue a certificate for any building or premises existing at the time of the adoption of this ordinance certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

#### F. ZONING AND PLANNING BOARD

1. A Zoning and Planning Board is hereby established. The Board shall consist of seven (7) members appointed by the Town Chairperson, subject to confirmation by the Town Board, for three (3) years, except that of those first appointed, one (1) shall serve for one (1) year, two (2) for two (2) years, and two (2) for three (3) years. The members shall serve with compensation as set by the Town Board and shall be removable by the Town Chairperson for cause upon written charges and after public hearing. The Town Chairperson shall designate one of the members to be chairman of the Zoning and Planning Board. The Town Chairperson shall appoint an alternate member for a term of three (3) years who shall act with full power only when a member of the Board is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Zoning and Planning Board may employ a secretary and other employees.
2. The Zoning and Planning Board shall adopt rules for its government and procedure. Meetings of the Zoning and Planning Board shall be held at the call of the Chairperson of the Zoning and Planning Board and at such other times as the Zoning and Planning Board may determine. The Chairperson or, in his/her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
3. The Zoning and Planning Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning and Planning Board and shall be a public record.

Statements of the facts found by the Board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying an exception as provided in the ordinance shall

also appear in the minutes, and in every instance, a statement of the facts upon which such recommendations are based shall appear in the minutes.

4. The Zoning and Planning Board shall have the following duties:
  - a. Review all applications for conditional uses and amendments to this ordinance and report said findings and recommendations to the Town Board in the manner designated by this ordinance for amendments and conditional uses.
  - b. Receive from the Zoning Administrator his/her recommendations as related to the effectiveness of this ordinance and report his/her conclusion and recommendations to the Eaton Town Board.
  - c. Hear and decide matters upon which it is required to pass under this ordinance.
  - d. To grant a permit for the change of a nonconforming use to another nonconforming use of the same classification.

#### G. APPEALS

1. Application. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town of Eaton affected by any decision of the Town Zoning Administrator.

Such an appeal shall be made within thirty (30) days after the decision or the action complained of by filing with the Town Zoning Administrator a notice of appeal specifying the grounds thereof.

2. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals.
3. Hearing on Application. The Zoning Board of Appeals shall hold a public hearing on each appeal. Time, place, and purpose of the appeal shall be published, as provided in the state law on planning and zoning and applicable to the Town of Eaton.
4. Due notice of the hearing shall be given to parties of interest, as well as owners of property located within one hundred (100) feet of the property in appeal. The Board shall reach a decision within sixty (60) days from the filing of the appeal.
5. The Zoning Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall

have all the powers of the Zoning Administrator. The concurring vote of four (4) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to affect any variation in the requirements of this ordinance.

6. Except as specifically provided, no action of the Zoning and Planning Board shall have the effect of permitting in any district uses prohibited in such district.

#### H. ZONING BOARD OF APPEALS

1. A Zoning Board of Appeals is hereby established. The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Chairman, subject to confirmation by the Town Board, for three (3) years. The members shall be removable by the Town Chairperson for cause upon written charges and after public hearing. The Town Chairperson shall designate one of the members as Chairperson of the Board of Appeals. The Town Chairperson shall appoint an alternate member for a term of three (3) years who shall act with full power only when a member of the Board of Appeals is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.
2. The Zoning Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairperson of the Board of Appeals and at such other times as the Board of Appeals may determine. The Chairperson or, in his/her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
3. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

Statements of the facts found by the Board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying an exception as provided in the ordinance shall also appear in the minutes. In every instance, a statement of the facts upon which such recommendations are based shall appear in the minutes.

4. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town of Eaton



affected by any decision of the Town Zoning and Planning Board or Town Zoning Administrator.

Such an appeal shall be made within thirty (30) days after the decision or the action complained of by filing with the Town Zoning Administrator a notice of appeal specifying the grounds thereof. If the appeal is because of a grievance due to a decision by the Town Zoning and Planning Board, the Chairperson of the Zoning and Planning Board shall also receive a copy of the appeal.

5. The Zoning Administrator or Town Zoning and Planning Board shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals.
6. The Board of Appeals shall hold a public hearing on each appeal. Time, place, and purpose of the appeal shall be published, as provided in the state law on planning and zoning and applicable to the Town of Eaton.
7. Due notice of the hearing shall be given to parties of interest, as well as owners of property located within one hundred (100) feet of the property in appeal.
8. The Board of Appeals shall have the following powers:
  - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator.
  - b. To hear and decide special exceptions to the terms of this ordinance upon which the Board of Appeals is required to pass.
  - c. Hear and pass upon the application for variance from the terms provided in this ordinance in the manner prescribed by and subject to the standards established herein. In every case where a variance from these regulations has been granted by the Zoning Board of Appeals, the minutes of the Board shall affirmatively show in what particular and specific respects an “unnecessary hardship” or “practical difficulty” would have been created by the literal enforcement of the terms of this ordinance.
9. Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district.

In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show in what particular and specific respects an “unnecessary hardship” or

“practical difficulty” would have been created by the literal enforcement of the terms of this ordinance.

10. The Board of Appeals may reverse or affirm wholly or in part or may modify an order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to affect any variation in the requirements of this ordinance.

## I. VARIANCES

1. Application. An application for a variance shall be filed with the Zoning Board of Appeals. The application shall contain such information as the Zoning and Planning Board by rule may require. Due notice of the hearing shall be given to parties of interest, as well as owners of property located within one hundred (100) feet of the property in appeal. The Board shall reach a decision within sixty (60) days from the filing of the appeal.

Notice of the time and place of such public hearing shall be published as provided in the state law on planning and zoning and applicable to the Town of Eaton.

2. Standards of Variances. The Zoning Board of Appeals shall not vary the regulations as set forth in G-1 above unless it shall make findings based upon the evidence represented to it in each specific case.
  - a. Because of the particular physical surrounding, shape, or topographical condition 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. Conditions upon which a petition for a variation 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. Alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.
  - d. Granting of the variation shall not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
  - e. Proposed variation shall not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the

public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property value within the neighborhood.

## J. AMENDMENTS

1. Authority. The Eaton Town Board may, from time to time, in the manner hereafter set forth, amend the regulations imposed in the districts and amend district boundary lines provided that in all amendatory ordinances adopted under the authority of this section due allowance shall be made for the intent purpose of said changes as per Article II of this ordinance.
2. Initiation. Amendments may be proposed by a governmental body, interested person, or organization.
3. Application. An application for an amendment shall be filed with the Zoning and Planning Board in such form and accompanied by such information as required by the Zoning and Planning Board. Said application shall be reviewed and a written recommendation submitted thereon to the Town Board.
4. Hearing Notice. The Town Board shall hold a public hearing on each application for an amendment. Time, place, and purpose of the hearing shall be published as provided in the state law on planning and zoning and applicable to the Town of Eaton. Due notice of the hearing shall be given to parties of interest, as well as owners of property located within one hundred (100) feet of the property in appeal. The Board shall reach a decision within sixty (60) days from the filing of the appeal.
5. Finding and Recommendation.
  - a. The Zoning and Planning Board shall make written findings of fact and shall submit the same together with its recommendations to the Town Board prior to the public hearing.
  - b. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Town Zoning Board shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:
    - (1) Existing uses or property within the general area of the property in question.
    - (2) Zoning classification of property within the general area of the property in question.
    - (3) Suitability of the property in question to the uses permitted under the existing zoning classification.

- (4) Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.

The Zoning and Planning Board 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.

The Zoning and Planning Board shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.

6. Town Board Action.

- a. The Town Board shall not act upon a proposed amendment to this ordinance until it shall have received a written report and recommendation from the Zoning and Planning Board on the proposed amendment.
- b. The Town Board may grant or deny any application for an amendment provided, however, that in the event of a written protest against any proposed amendment to this ordinance, be duly signed and acknowledged by the owners of twenty (20) percent or more, either of the areas of the land included in such proposed change or by the owners of twenty (20) percent or more of the land immediately adjacent and extending one hundred (100) feet therefrom or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the unanimous vote of the full Town Board membership.
- 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.

The Board shall make a decision on the amendment within sixty (60) days from the filing of the application for rezoning.

K. **CONDITIONAL USES**

1. Purpose. To place unique land use characteristics within favorable zoning districts to ease conflicts on neighboring lands and public need.
2. Initiation. 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 or 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 ordinance in the zoning district in which the land is located.

3. Application. The application for a conditional use shall be filed with the Eaton Zoning and Planning Board on a form so prescribed by the Town of Eaton. The application shall be accompanied by such plans and/or data prescribed by the Zoning and Planning Board 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 the respective zone districts. Such application shall be reviewed by the Zoning and Planning Board and a written recommendation submitted thereon to the Town Board.
4. Hearing on Application. Upon receipt in proper form of the written recommendation referred to in Subsection I-3, the Town Board shall hold at least one (1) public hearing on the proposed conditional use. Due notice of the hearing shall be given to parties of interest, as well as owners of property located within one hundred (100) feet of the property in appeal. The Board shall reach a decision within sixty (60) days from the filing of the appeal.
5. Authorization. For each application for a conditional use, the Zoning and Planning Board shall report to the Town Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. The Board shall make a decision within sixty (60) days from the filing of the rezoning application.
6. Conditions and Guarantees. Before issuing a conditional use permit, the Zoning and Planning Board may recommend and the Town Board shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest. In all cases in which conditional uses are granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

#### L. FEES

Any application for an amendment or condition use filed by or on behalf of the owner or owners of the property affected shall be accompanied by a fee of two hundred dollars (\$200). The fee for variances and appeals shall be two hundred dollars (\$200). All fees shall be paid to the Town Treasurer.

- a. Any application for a building permit shall be accompanied by a fee of \$25.00 for work valued at \$0 - \$9,999.99, a fee of \$50.00 for work valued at \$10,000.00 - \$19,999.99, and a fee of \$100.00 for work valued in excess of \$19,999.99. The fee for an after-the-fact building permit received after work has begun is twice the normal fee based on the value of the work as described above.

## **ARTICLE XVII: VIOLATIONS AND PENALTIES**

Any building or structure hereafter erected, moved, or structurally altered or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure, or use. The Building Inspector or Zoning Administrator shall promptly report all such violations to the Town Attorney who shall bring action to enjoin the erection, moving, or structural alteration of such building or the establishment of such use or to cause such building, structure, or use to be vacated or removed.

Any person, firm, or corporation who violates, disobeys, neglects, omits, or refuses to comply with or who resists enforcement of any of the provisions of this ordinance may also be required, upon conviction, to forfeit not less than ten dollars (\$10) nor more than five hundred dollars (\$500) 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 Brown 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.





**ARTICLE XVIII: VALIDITY**

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.



**ARTICLE XIX: CONFLICTING PROVISIONS REPEALED**

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.



**ARTICLE XX: WHEN EFFECTIVE**

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



# TOWN OF EATON MUNICIPAL CODE

## EXPLOSIVES AND BLASTING ORDINANCE TOWN OF EATON, BROWN COUNTY, WISCONSIN

- 1-1 Purpose of Chapter
- 1-2 Definitions
- 1-3 Regulation of Explosive Materials and Blasting
- 1-4 Temporary Permits
- 1-5 Regulation of Blasting Resultants
- 1-6 Monitoring
- 1-7 Preblast Survey and Notification
- 1-8 Enforcement and Penalties

### SEC. 1-1 PURPOSE OF CHAPTER

- a) The purpose of this chapter is to regulate the use of explosive materials and to establish uniform limits on permissible levels of blasting resultants to reasonably ensure that blasting resultants do not cause injury, damage, or a nuisance to persons or property. The standards established herein apply to the detonation of explosives used to fragment ore or minerals for mining, quarrying, excavation, and construction within the Town of Eaton. This ordinance applies to all quarry and mining operations existing at this ordinance's adoption and all such operations beginning after this ordinance's adoption.
  
- b) Conflict with This Ordinance, Wisconsin Statutes, or Regulations.  
The Town Board may, in its sole discretion, issue conditional use permits for individual blasting projects that contain provisions specific to that individual project. If the provisions of the conditional use permit regulating environmental activities exceed the requirements of either this ordinance, applicable statutes, state DNR administrative code regulations, and/or any applicable federal regulations or statutes, the provisions of the conditional use permit shall control. If the provisions of the conditional use permit regulating environmental activities are less strict than those of this ordinance, applicable statutes, state DNR administrative code regulations, and/or any applicable federal regulations or statutes, those statutory and/or administrative code provisions shall control to the extent that they exceed the provisions of the conditional use permit provisions. However, if the provisions of the conditional use permit that regulate non-environmental activities differ from those found in this ordinance, those provisions of the conditional use permit shall control. Examples of conditions which regulate non-environmental activities include, but are not limited to, hours of operation, blasting logs, enforcement provisions, complaints of violations, records of operation, renewal of permit, inspection, and right of access.

## SEC. 1-2 DEFINITIONS

The following definitions shall apply in this chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning.

- a) "Airblast" means an airborne shock wave resulting from the detonation of explosives.
- b) "Approved" means approval granted by the Town of Eaton.
- c) "Blaster" means any individual holding a valid blaster's license issued by the Wisconsin Department of Commerce.
- d) "Blasting business" means any individual, corporation, company, association, firm, partnership, society, or joint stock company engaged in a blasting operation.
- e) "Blasting" means any method of loosening, moving, or shattering masses of solid matter by use of an explosive.
- f) "Blasting operation" means any operation, enterprise, or activity involving the use of blasting.
- g) "Blasting resultants" means the physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration, and concussion, which causes injury, damage, or unreasonable annoyance.
- h) "Community" means a built-up inhabited area.
- i) "Permitted explosives use area" means the area that surrounds a blasting site and
  - 1) Is owned by the operator; or
  - 2) With respect to which, because of property ownership, employment relationship, or agreement with the property owner, the operator can take reasonably adequate measures to exclude or to ensure the safety of persons and property.
- j) "Detonator" means any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and non-electric instantaneous and delay blasting caps.
- k) "Department" means the Wisconsin Department of Commerce.
- l) "Electric blasting cap" means a blasting cap designed for and capable of initiation by means of an electric current.
- m) "Explosion" means the substantially instantaneous release of both gas and heat.
- n) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion unless the compound, mixture, or device is otherwise classified by the Department by rule.
- o) "Explosive materials" means explosives, blasting agents, and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.
- p) "Flyrock" means rock that is propelled through the air from a blast.
- q) "Ground vibration" means a shaking of the ground caused by the elastic wave emanating from a blast.



- r) "Mine" means an excavation in the earth from which ore or minerals can generally be extracted without crushing or blasting.
- s) "Mineral" means a naturally occurring, inorganic solid substance that is extracted or obtained from the earth.
- t) "Mining" means to obtain ore or minerals from a quarry, as by crushing, blasting, or excavating.
- u) "Ore" means a mineral or an aggregate of minerals.
- v) "Quarry" means an open excavation or pit from which ore or minerals are obtained by mining.
- w) "Site" means the entire property owned or operated in which the quarry or mine is located; where measurements of distance are involved, said measurements shall begin at the boundaries of the property.
- x) "Parties in interest" means the blaster and blasting business and all owners of property located within at least one-half (1/2) mile of the boundaries of a blasting site.
- y) "Highway" means any public street, public alley, or public road.
- z) "Inhabited building" means a building regularly occupied in whole or in part as a habitation for human beings or domesticated animals or any church, schoolhouse, railroad station, store, places of employment, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosive materials.
- aa) "Particle velocity" means any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.
- bb) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- cc) "Powder factor" means any ratio between the amount of powder loaded and the amount of rock broken.
- dd) "Primer" means a capped fuse, electric detonator, or any other detonating device inserted in or attached to a cartridge of explosive.
- ee) "Stemming" means the inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.
- ff) "Nuisance" means an excessive, repeated noise, odor, dust, vibration, action, or other disturbance that would cause an unreasonable annoyance to a person or domesticated animal, a physical injury to or an interference with the real or personal property or an interest in the real or personal property of a person.
- gg) "Town" means the Town of Eaton.

### **SEC. 1-3 REGULATION OF EXPLOSIVE MATERIALS AND BLASTING**

- a) General. No person shall handle or use explosive materials in the Town of Eaton unless he:
  - 1) Possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification; and

- 2) Possesses all necessary state permits and complies with all applicable local, state, and federal regulations, including, but not limited to, the requirements of this chapter and Chapters Comm. 5 and 7 and NR 415 of the Wisconsin Administrative Code and Chapter 295 of the Wisconsin Statutes.
- b) Permit. No person shall handle, use, or cause explosives to be detonated within the Town of Eaton without an explosives use permit issued by the Town of Eaton as hereafter set forth to such person, his supervisor, or employer:

- 1) Application. Applications for an explosives use permit shall be in writing upon forms provided by the Town Clerk. Applications shall be accompanied by a five hundred dollar (\$500) permit fee. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. All explosives use permits applied for after January 1 shall be prorated from the date of the issuance of the permit through the end of the year. Applications may be made by and permits issued to the blasting business provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The applicant will identify the licensed blasters operating under the permit and the blasting locations with the Town of Eaton.

Renewal. All the applications for re-issuance and renewal for an explosives use permit shall be filed by the permittee with the Town Clerk within sixty (60) days before the expiration date of the previous permit along with the annual five hundred dollars (\$500) permit fee. No permit renewal shall be granted unless the project is in complete compliance with the terms of the existing permit. Permit renewals may be conditioned upon correction of any unanticipated environmental impacts occurring during the original or renewal permits. A public hearing shall be required to be held with respect to a renewal application, including such time as the application provides for an enlargement of the previously-approved site or otherwise provides for an alteration or change in the method of operations previously approved which might adversely affect the use or enjoyment of nearby properties. Any appeal from the Town Board's decision to renew or not to renew a permit shall be initiated as an action commenced in the Circuit Court not later than forty-five (45) days from the date the Town Board decides to deny renewal of a permit.

- 2) Certificate of Insurance. Each application for an explosives use permit as herein stated or a renewal thereof shall be accompanied by a Certificate of Insurance for a Commercial General Liability Policy and said Policy of Insurance shall have limits of coverage of not less than five million dollars (\$5,000,000) in the aggregate and five hundred thousand dollars (\$500,000) per occurrence, and the Town shall be named as an additional insured on applicant's Policy of Liability Insurance.
- 3) Explosives Use Plan. Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are proposed to be used, blasting procedures to be

employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Town Board with a scale of not less than one (1) inch equals four hundred (400) feet and having an overlaying grid of fifty (50) feet by fifty (50) feet which accurately includes all areas and inhabited buildings within one thousand (1,000) feet of all proposed blasting areas.

- 4) Hours of Operation. Blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday provided, however, that, in the event an emergency has delayed a blast beyond 4:00 p.m., loaded holes may be blasted within a reasonable time thereafter but not later than 5:00 p.m. that day. Blasting shall not be conducted at other times or on Saturdays, Sundays, or legal holidays without written permission from the Town Board, which shall only be granted upon a showing of extreme need.
- 5) Blasting Log. An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Town Clerk within seven (7) working days of the initiation of the blast. The Town may require that the permittee furnish to the Town an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Town may, after reasonable prior notice and opportunity for a due process hearing on the matter, hire and obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis. Each blasting log shall include, but not be restricted to, the following information:
  - a. Name and license number of blaster in charge of blast.
  - b. Blast location with grid coordinate references to the supplied aerial photograph or drawing of the explosives use area.
  - c. Date and time of blast.
  - d. Weather conditions at time of blast.
  - e. Diagram and cross-section of blast hole layout.
  - f. Number of blast holes.
  - g. Blast hole depth and diameter.
  - h. Spacing and burden of blast holes.
  - i. Maximum holes per delay.
  - j. Maximum pounds of explosives per delay.
  - k. Depth and type of stemming used.
  - l. Total pounds of explosives used, including primers and initiating cord.
  - m. Distance to nearest inhabited building not owned by permittee.
  - n. Type of initiation system used.
  - o. Seismographic and airblast information, which shall include:
    - 1) Type of instrument and last calibration date.
    - 2) Exact location of instrument and date, time, and distance from the blast.
    - 3) Name and company affiliation of person taking reading.
    - 4) Name of the person and firm analyzing the seismographic and airblast data when required.

- 5) Vibrations and airblast levels recorded.
  - 6) Copy of the seismograph printout.
- 6) No permittee shall be required to obtain more than one (1) permit annually for its operations within the Town.

#### **SEC. 1-4 TEMPORARY PERMITS**

The Town Clerk, upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of fourteen (14) consecutive days. The temporary permit fee shall be two hundred dollars (\$200) and shall be submitted with the completed temporary permit application form. Only one (1) temporary permit can be issued for any given site or blaster within the year of permit issuance. Temporary blasting for basements and sewer and water laterals for single-family residential construction will not require a temporary permit under this section.

#### **SEC. 1-5 REGULATION OF BLASTING RESULTANTS**

- a) Purpose of Sections. It is the purpose of this section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably ensure that blasting within the Town of Eaton does not cause injury, damage, or a nuisance to persons or property outside and beyond the permitted explosives use area.
- b) Instrumentation. All blast-monitoring instruments used to produce data to support compliance with this subsection shall meet the following minimum specifications:
  - 1) Seismic frequency range. 2 to 200 Hz (+/- 3 Hz).
  - 2) Acoustic frequency range. 2 to 200 Hz (+/- 1dB).
  - 3) Velocity range. 0.02 to 4.0 inches per second.
  - 4) Sound range. 100 to 140dB linear.
  - 5) Transducers. Three (3) mutually perpendicular axes.
  - 6) Recording. Provide time-history of wave-form.
  - 7) Printout. Direct printout showing time, date, peak air pressure, peak particle velocity, and frequency in three (3) directions and a printed wave-form graph of the event depicting measured air blast and particle velocity in the three (3) directions.
  - 8) Calibration. At least once every twelve (12) months, according to manufacturer's recommendations.

c) Control of Adverse Effects.

- 1) General Requirements. Blasting shall be conducted so as to prevent injury or a nuisance to persons and damage to public or private real or personal property outside the permitted explosives use area.
- 2) Airblast.
  - a. Limits. Airblast shall not exceed the following limits at the location of any dwelling, public building, place of employment, school, church, community, or institutional buildings outside and beyond the permitted explosives use area.

<u>Lower Frequency Limit of Measuring System in Hz</u>	<u>Maximum Level in dB</u>
2 Hz or lower – flat response	133 peak
6 Hz or lower – flat response	129 peak

d) Ground Vibration. General.

- 1) The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church, community, or institutional building outside the controlled blasting site area shall be established in accordance with either the maximum peak particle velocity limit (see Table 7.64-2), the scaled-distance of par. g), or the blasting level chart of par. h), whichever is applicable and yields the lowest permissible maximum ground vibration.
- 2) All structures in the vicinity of the blasting area not listed in sub d. 7 (such as water towers, pipelines and other utilities, tunnels, dams, impoundments, landfills or other solid waste disposal facilities, and underground mines) shall be protected from damage by establishment by the operator of a maximum allowable limit on the ground vibration. The operator shall establish the limit after consulting with the owner of the structure. Such limits shall be subject to change by order of the Town Board subsequent to a due process hearing requested by any interested person.

Maximum peak particle velocity. An operator may use the maximum ground vibration limits listed in Table 7.64-2.

**Table 7.64-2  
PEAK PARTICLE VELOCITY LIMITS**

Type of structure	Maximum in allowable peak particle velocity for ground vibration, in/sec	
	At frequencies below 40 Hz *	At frequencies 40 Hz and greater
Modern homes and structures with drywall interiors	0.75	2.0
Older homes and structures with plaster on wood lath construction for interior walls	0.30	2.0

\* All spectral peaks within 6 dB (50 pct) amplitude of the predominant frequency must be analyzed.

- 3) Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements and the vector sum of the three measurements.
- 4) A seismographic record shall be provided for each blast.

e) Scaled-distance equation.

- 1) An operator may use the scaled-distance equation,  $W = (D/D_s)^2$ , to determine the allowable charge-weight of explosives to be detonated in any 8-millisecond period without seismic monitoring where  $W$  = the maximum weight per delay of explosives, in pounds;  $D$  = the distance, in feet, from the blasting site to the nearest structure listed in par. a) 1; and  $D_s$  = the scaled-distance factor listed in Table 7.64-3.
- 2) The development of a modified scaled-distance factor may be authorized by the Town on receipt of a written request by the operator and supported by seismographic records of blasting at the site. The modified scaled-distance factor shall be determined such that the particle velocity of the predicted ground vibration will not exceed the prescribed maximum allowable peak particle velocity of par. b) at a 95 percent confidence level.

**Table 7.64-3  
SCALED-DISTANCE FACTOR LIMITS**

Distance from the blasting	Scaled-distance factor ( $D_s$ ) to be applied without seismic monitoring
0-300	50
301 to 5,000	55
5,001 and beyond	65

f) Blasting Level Chart (see figure 7.64)

- 1) An operator may use the ground vibration limits found in Figure 7.64 to determine the maximum allowable ground vibration.
- 2) If the Figure 7.64 limits are used, a seismographic record, including both particle-velocity and vibration frequency levels, shall be provided for each blast. The method of analysis shall be subject to reasonable discretionary review and modification by the order of the Town Board following a due process hearing.

g) Dust Emissions. The Excavator shall ensure, at all times, to minimize as much as possible the visible emissions from the quarry property at the property line. This shall apply to all quarry-related operations, including, but not limited to, blasting,

crushing, and transportation of quarry materials. If emissions do occur in violation of this section, all quarry operations shall be temporarily suspended. Any member of the Town Board shall have the authority to direct Excavator to immediately temporarily suspend quarry operations upon receiving notice of a violation of this section. In addition, Excavator shall comply with all applicable regulations, including, specifically, NR 415.075, Wisconsin Administrative Code. Excavator shall provide the Town with a fugitive dust control plan similar to that described in NR 415.075(6), Wisconsin Administrative Code. Preventative dust suppression methods may be necessary to comply with this condition. Dust suppression methods shall include, but not be limited to, the following:

- 1) Paving, chip sealing, or covering with calcium chloride (or such other methodology as may be approved by the Town Board) the driveway into the quarry.
- 2) The tires of all vehicles engaged in ingress or egress from the quarry site shall be clean or cleaned completely to prevent the tracking of material onto Phillips Road.
- 3) Posting and maintenance of a 10-mph speed limit on paved or unpaved roads or other areas used by haul trucks inside the quarry property line.
- 4) Covering, treatment, or securing of materials likely to become airborne from haul trucks during transport and prior to any transportation offsite from the quarry.
- 5) Use of wet drilling or other means of control approved by the DNR.
- 6) Use of blast hole stemming materials that have been approved by either the Department or the Department of Industry, Labor, or Human Relations.
- 7) An electronically powered anemometer shall be installed at the highest practical point on the quarry property. The wind speed shall be monitored before loading a blasting charge. If the wind speed equals or exceeds 10 mph or 16.09 KM/hr, the charge shall not be loaded, and blasting shall not take place. Excavator shall keep a log of wind speed readings taken before each blast and shall produce said log to the Town upon request.

## **SEC. 1-6 MONITORING.**

### a) Monitoring.

- 1) The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community, or institutional building outside and beyond the permittee explosives use area provided, however, that the permittee may monitor at another location approximately the same distance from the blast site if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Town Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site and/or may conduct independent air-blast monitoring to spot-check data supplied by

the permittee. If independent monitoring by the Town after hearing discloses that the ordinance was violated by the permittee, then, in that event, the permittee shall pay the reasonable costs incurred by the Town for the independent monitoring.

- 2) The measuring equipment used shall have an upper end flat frequency response of at least two hundred (200) Hz.
  - 3) All measuring equipment during monitoring shall be spiked to the ground or sandbagged.
- b) Flyrock. Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.
- c) Seismic Monitoring. The Town Board, at its discretion, may conduct independent seismic blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring discloses that the permit holder supplied data is inaccurate or that the ordinance was violated, the permit holder must pay the cost incurred by the Town for the independent monitoring.

#### **SEC. 1-7 PREBLAST SURVEY AND NOTIFICATION**

- a) Preblasting Notification.

Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures or any other parties of interest located within a least one-half (1/2) mile of the boundaries of the blasting site.

- b) At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the previously defined area one-half (1/2) mile who may request a preblast survey and a water quality test for existing wells. This request shall be in writing. The applicant shall cause a preblast survey to be conducted as to such dwelling or structures and water quality testing for existing wells, provided, however, that the applicant shall not be required to conduct a preblast survey or well water quality testing more than once every six (6) years as to any dwelling, structure, or well. A change of ownership of a property would justify a request of a preblast survey to be conducted before the six-year limit.
- c) The owner of a dwelling or structure that is within one-half (1/2) mile of the blasting site, which, subsequent to the conducting a preblast survey has been modified to the extent that a building permit is required, may request a preblast survey. If it is found that a preblast survey for such improved or modified structure is appropriate, the applicant/permittee may conduct such surveys within a reasonable period of time but in no case exceeding twice a year for all such requests by all owners.



- d) The preblast survey and water quality testing shall be promptly conducted in a manner and form and by an independent survey company, a laboratory approved by the State of Wisconsin or organization selected by the applicant and acceptable to the owner or resident and the Town Building Inspector. The survey shall determine the condition of the dwelling or structure and shall document any preblasting damage or other physical factors that could reasonably be expected to be affected by the use of explosives. The testing of wells shall determine the condition of the water as to be safe for human use. The Board may consider accepting a blasting survey or well water test that was prepared prior to the effective date of this ordinance if the blasting survey and well water test meets the requirements outlined herein.
- e) The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Town Clerk, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town Clerk any objections to the survey report, setting forth in detail such objections.
- f) The water quality test for existing wells shall include a written report signed by the person who conducted the test. Copies of the test shall be promptly provided to the Town Clerk, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town Clerk objections to the test, setting forth in detail such objection.
- g) Reasonable and reasonably related expenses incurred as a result of such independent surveys shall be the responsibility of the applicant/permittee.

#### **SEC. 1-8 ENFORCEMENT AND PENALTY PROVISIONS.**

- a) Enforcement. The following are criteria that the Town Board may consider for issuance, re-issuance, suspension, or revocation of a blasting permit:
  - 1) Compliance with the blasting standards established by the Town as noted herein by this ordinance.
  - 2) Development and submittal to the Town Board of the explosives use plan and compliance with the explosives use plan.
  - 3) Development and submittal to the Town Board the blasting log and compliance with the operation plan with the information called for by the blasting log.
  - 4) Maintaining the financial assurance requested by the Town Board.
  - 5) Compliance with the operational hours for blasting as noted herein by this ordinance.
  - 6) Compliance with airblast and ground vibration standards established by the Town Board as noted herein by this ordinance.

- 7) Compliance with the pre-blasting notification requirements to residents and the Town Board as noted herein by this ordinance.
  - 8) Attempts made by the permittee or party in interest to comply with the provisions of this ordinance.
  - 9) Consideration of atmospheric, unknown conditions, including geophysical conditions, and other matters beyond the control of the permittee or party in interest.
  - 10) Any other relevant evidence.
- b) Suspension/Revocation. Unless expressly provided herein or by other Town Ordinance provisions, the explosive use permit may be suspended or revoked for cause for noncompliance with the ordinance after the proper Town Board hearing noted below, unless in an emergency condition determined by the Town Board wherein the license or permit can be suspended temporarily for a set time-period. Prior to any action for suspension or revocation, the Town Board must, by the Town Clerk, have received a verified complaint concerning the licensee or permittee. The following persons may file verified complaint with the Town Board:
- 1) The Town Chair
  - 2) The Town Clerk
  - 3) The Town Supervisors
  - 4) The Town Zoning Administrator/Building Inspector
  - 5) The Town Constables
  - 6) Any Town of Eaton resident
  - 7) Any landowner within 4,000 feet of the blasting site

The Town Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to require a formal evidentiary hearing.

The person subject to charges for violation of any Town ordinance or any violation of a condition of an explosives use permit shall be provided a copy of the verified complaint and notice of hearing before the Town Board. The hearing shall be required to be not less than ten (10) days nor more than thirty (30) days after receipt of notice, unless otherwise stipulated in writing by the Town Board and the person subject to charges.

The person subject to charges for violation of any Town ordinance or any violation of a condition of an explosives use permit shall be entitled to the following:

- 1) Representation by legal counsel
- 2) Right to present and cross-examine witnesses
- 3) Right to subpoena witnesses by the Town Chair issuing subpoenas to compel attendance of witnesses

The Town Board, after the hearing for any person previously issued an explosives use permit by the Town Board, may act as follows:

- 1) Revoke the permit as a final decision
- 2) Suspend the permit for a number of days, weeks, or months until the date certain as a final decision
- 3) Request additional information as an interim decision prior to taking future action
- 4) Take no action on the permit as a final decision.

The final decision of the Town Board to revoke or suspend the explosives use permit shall be subject to appeal by writ of certiorari to the Circuit Court.

- c) **Penalty.** In addition to the denial, suspension, or revocation of a permit issued under this chapter, any person who shall violate any provision of this chapter or who shall fail to obtain a permit as required hereunder shall upon conviction of such violation be subject to a penalty of a civil forfeiture of not less than Twenty Dollars (\$20) nor more than Five Hundred Dollars (\$500), together with the costs of prosecution which include all statutory costs plus the actual attorney's fees incurred by the Town in pursuit of such prosecution of any such violation(s). Any default of such forfeiture determined by a court of competent jurisdiction shall be subject to any penalties provided by Section 66.115, 66.117, 66.119, and 66.12, Wis. Stats., as may be amended.

Each violation and each day a violation continues or occurs shall constitute separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter.

**ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ARE HEREBY REPEALED.**

**SEPARABILITY OF CHAPTER PROVISIONS.** If any section, subsection, sentence, clause, or phrase of the chapter is for any reason held to be invalid or unconstitutional by reason of any decision of any court or competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause, or phrase or portion thereof. The Board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that nay one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

This ordinance shall take effect upon its approval and the day after publication.



## **DOG ORDINANCE**

An ordinance regulation and licensing of dogs for the government and good order of the Town of Eaton, Brown County, Wisconsin, and for the preservation of the public health;

Be it ordained by the Town Board of the Town of Eaton, Brown County, Wisconsin:

### **SECTION I LICENSE REQUIRED**

- (a) It shall be unlawful for any person in the Town of Eaton to own, harbor, or keep any dog more than six months of age without complying with the provisions of Section 174.10, Wisconsin Statutes, relating to the listing, licensing, and tagging of the same.
- (b) The fact that a dog is without a license attached to a collar shall be presumptive evidence that the dog is unlicensed. No action shall be maintained for an injury to or the destruction of a dog without a tag unless it shall appear that a tag has been properly attached to the collar of the dog and has been lost or removed without the knowledge of the owner.
- (c) The Pound Master or Constable or a duly authorized humane society officer shall seize, impound, or restrain any dog found running at large; any such officer shall enter the premises of the owner to seize, restrain, impound, or kill any dog found in any place without a license.

### **SECTION II DEFINITIONS**

In this section, unless the context or subject matter otherwise require:

- (a) "Owner" shall mean any person owning, harboring, or keeping a dog, and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of ten (10) days is presumed to be harboring or keeping the dog within the meaning of this section.
- (b) "At large" means to be off the premises of the owner and not under the control of some person, either by leash or otherwise, but a dog within an automobile of its owner or in an automobile of any other person with the consent of the dog's owner shall be deemed to be upon the owner's premises.

**SECTION III  
RESTRICTIONS ON KEEPING DOGS**

It shall be unlawful for any person in the Town of Eaton to own, harbor, or keep any dog which:

- (a) Habitually pursues any vehicle upon any public street, alley, or highway of the Town.
- (b) Assaults or attacks any person.
- (c) Is at large within the limits of the Town.
- (d) Habitually barks or howls to the annoyance of any person or persons.
- (e) Kills, wounds, or worries any domestic animals.
- (f) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

**SECTION IV  
DUTY OF OWNERS IN CASES OF DOG BITE**

Every owner or person harboring or keeping a dog, who knows that such dog has bitten any person, shall immediately report such fact to the Health Officer and shall keep such dog confined for not less than 14 days or for such period of time as the Health Officer shall direct. The owner or keeper of any such dog shall surrender the dog to the Health Officer or any Town police officer upon demand for examination.

**SECTION V  
LIMITING NUMBER OF DOGS ON RESIDENTIAL OR AGRICULTURAL LOT**

- (a) The keeping of a large number of dogs in a residential or agricultural district for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of a large number of dogs is, therefore, declared to be a public nuisance.
- (b) "Dog" shall mean any canine, regardless of age or sex.
- (c) "Residential lot" shall mean a parcel of land zoned as residential or agricultural, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this ordinance, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one lot.

- (d) No person shall own, harbor, or keep in his possession more than three (3) dogs on any lot zoned as residential or agricultural, with the exception that a litter of pups or a portion of a litter may be kept for a period of time not exceeding eight (8) weeks from birth. If more than one family resides on any particular lot, then the party exceeding the limitation imposed by this ordinance is in violation thereof.
- (e) Any person with more than three (3) dogs on any lot zoned as residential or agricultural land must have a kennel license which must be obtained from the Town Board.
- (f) The provisions of Wisconsin Statutes Section 174.06 shall apply to licensing of kennels. The annual license tax shall be \$20.

## **SECTION VI PENALTY**

- (a) Any person, firm, or corporation who shall violate any provision of this ordinance shall be punished by a forfeiture of not less than \$10 nor more than \$25, and upon failure to pay said forfeiture shall be confined to the county jail for not more than five (5) days.
- (b) Any person, firm, or corporation found guilty of violating any provisions of this ordinance, who shall previously have been convicted of a violation of said ordinance, shall, upon conviction thereof, forfeit not less than \$10 nor more than \$200 for each such offense, together with the costs of prosecution, and in default of payment of forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed six (6) months.

## **SECTION VII**

This ordinance shall take effect upon its passage and publication according to law.





**ORDINANCE OF THE TOWN OF EATON RELATING TO  
POISONOUS OR VENOMOUS AMPHIBIANS, ARACHNIDS, OR REPTILES**

THE TOWN BOARD OF THE TOWN OF EATON DOES ORDAIN AS FOLLOWS:

I. INTENT

It is the purpose of this ordinance to promote and protect the health, safety, and general welfare of law enforcement personnel, fire and rescue personnel, and others of the public who may come upon a premises to render aid and assistance or for other lawful purposes and to prevent the serious health hazards presented to humans who are bit or injected with the poisonous or venomous substances produced and emitted by certain species of amphibians, arachnids, and reptiles.

II. AUTHORITY

This ordinance is enacted pursuant to Sections 60.55, 60.56, 60.565, 60.23(23), 66.052, and 60.22(3), Wis. Stats.

III. ADOPTION OF ORDINANCE

The Town Board of the Town of Eaton has, by adoption of this Ordinance, confirmed the specific statutory authority, powers, and duties noted in the immediately above section of this ordinance and has established by these sections and this ordinance regulations, controls, and enforcement against certain activities which may cause a significant health hazard to law enforcement personnel, fire personnel, rescue personnel, and members of the general public who may come upon a premises containing the herein specified creatures.

IV. DEFINITIONS

- A. PERSON: As utilized herein, the term "person" refers to any individual whether as fee simple owner, tenant, family member, or other individual who is apparently in charge of any premises which contains or who brings upon any premises in the Town of Eaton any species regulated pursuant to this ordinance.
- B. PREMISES: Refers to any structure within which any regulated species will be brought, kept, or housed.
- C. REGULATED SPECIES: Includes any poisonous or venomous, biting, or injecting species of amphibian, arachnid, or reptile, including snakes, whether indigenous or not indigenous to Wisconsin.

## V. GENERAL PROVISIONS

- A. **REGISTRATION REQUIRED:** No person shall bring into, keep, maintain, offer for sale or barter, or capture and retain upon any premises in the Town of Eaton any poisonous or venomous biting or injecting species of amphibian, arachnid, or reptile, including, but not limited to, snakes indigenous or not indigenous to the State of Wisconsin unless the person having charge of the premises shall have registered the presence of any such species with the Town Clerk as provided herein.
- B. **REGISTRATION PROCEDURE:** Prior to or not later than the first date upon which any regulated species shall be brought upon a premises located in the Town of Eaton, the person in charge of such premises shall:
1. Obtain a registration form from the Town Clerk and fully complete such registration form, including the following information: the identifying name of the regulated species; the method such species utilizes to emit any poisonous or venomous substance; the location upon the premises where such creatures will be kept; the manner of housing which will be utilized; all known antidote(s) to the venom or poison emitted by any such species; and any such other and further information as the Town Clerk may deem appropriate.
  2. The person in charge of the premises upon which any regulated species shall be brought shall cause a sign of not less than four inches by five inches (4" x 5") to be posted in a conspicuous space at the main entrance to the premises where any such species shall be located. The sign shall contain the following: "WARNING – VENOMOUS / POISONOUS SPECIES ON PREMISES."
  3. Upon receipt of a completed registration form concerning any regulated species, the Town Clerk shall: immediately notify the police, fire and rescue agencies providing such services to the Town of the presence of such species; provide each such agency with a copy of the registration form; and retain the original registration form on file.
  4. No person shall release into the wild or allow any regulated species to escape from the premises within which they are to be kept or housed. In the event that any regulated species shall escape the premises or at anytime the whereabouts of any such species is unknown to the person in charge of the premises, that person shall immediately contact the Town Clerk and advise the Town Clerk as to the nature of such species and the location upon the premises where such species was last seen. Upon the recapture of any such species, the person in charge of the premises shall thereupon contact the Town Clerk and advise that such species has been recaptured. The Town Clerk shall, upon notification of

any such escaped species, immediately advise the police, fire and rescue agencies concerning any such escape and recapture.

5. Any person who shall fail to register any such species with the town clerk as required herein shall, upon conviction, forfeit not less than \$10 nor more than \$500, together with all costs of prosecution, including attorneys fees incurred by the town and, in default of the payment thereof, shall be imprisoned in the county jail until such forfeiture and costs are paid as provided by law. Each violation and each day a violation continues or occurs shall constitute a separate offense. This section shall not preclude the town of Eaton from maintaining any appropriate action to prevent or remove a violation of this ordinance. Any person who shall fail to report to the town clerk within twenty-four (24) hours of such event of any escape or recapture of any such species, upon conviction, shall be subject to all of the penalties set forth hereinabove.
  6. Any changes required to keep the registration of the number and variety of regulated species upon any premises current shall be made by the person in charge of the premises or the person who brings the regulated species upon the premises to the Town Clerk within twenty-four (24) hours of any additional species being brought upon the premises. The permanent removal of any regulated species from any premises shall likewise be reported to the Town Clerk.
- VI. EFFECTIVE DATE: This ordinance shall take effect ten (10) days after its publication.



## TOWN OF EATON RECYCLING ORDINANCE

1.01 Title. Recycling Ordinance for Town of Eaton

1.02 Purpose. The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in sec. 159.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.

1.03 Statutory Authority. This ordinance is adopted as authorized under sec. 159.09(3)(b), Wis. Stats., and 60.22 Wis. Stats.

1.04 Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing rules, regulations, ordinances, or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

1.05 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment of this ordinance.

1.06 Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

1.07 Applicability. The requirements of this ordinance apply to all persons within the Town of Eaton.

1.08 Administration. The provisions of this ordinance shall be administered by the Town Board, which may by resolution hereafter delegate certain administrative duties hereunder to a designated "person," as that term is defined hereinbelow, who shall be referred to as the "Recycling Administrator."

1.09 Effective Date. The provisions of this ordinance shall take effect on April 1, 1994.

1.10 Definitions. For the purposes of this ordinance:

- 1) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

- 2) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.
- 3) "HDPE" means high density polyethylene plastic containers marked by the SPI code No. 2.
- 4) "LDPE" means low density polyethylene plastic containers marked by the SPI code No. 4.
- 5) "Magazines" means magazines and other materials printed on similar paper.
- 6) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, or stove.
- 7) "Mixed or other plastic resin types" means plastic containers marked by the SPI code No. 7.
- 8) "Multiple-family dwelling" means a property containing five (5) or more residential units, including those which are occupied seasonally.
- 9) "Newspaper" means a newspaper and other materials printed on newsprint.
- 10) "Non-residential facilities and properties" means commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple family dwellings.
- 11) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- 12) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in sec. 66.299 (1)(a), Wis. Stats., state agency or authority or federal agency.
- 13) "PETE" means polyethylene terephthalate plastic containers marked by the SPI code No. 1.
- 14) "Post-consumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in sec. 144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in sec. 144.44(7)(a)1., Wis. Stats.
- 15) "PP" means polypropylene plastic containers marked by the SPI code No. 5.

- 16) "PS" means polystyrene plastic containers marked by the SPI code No. 6.
- 17) "PVC" means polyvinyl chloride plastic containers marked by the SPI code No. 3.
- 18) "Recyclable materials" include lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspapers; office paper; plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bi-metal containers.
- 19) "Solid waste" has the meaning specified in sec. 144.01(15), Wis. Stats.
- 20) "Solid waste facility" has the meaning specified in sec. 144.43(5), Wis. Stats.
- 21) "Solid waste treatment" mean any method, technique, or process which is designed to change the physical, chemical, or biological character or composition of solid waste. "Treatment" includes incineration.
- 22) "Town Facility" means the Town of Eaton Recycling Drop-Off Facility located at the Town Hall on County Trunk T, Easton, Brown County, Wisconsin.
- 23) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.
- 24) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

1.11 Separation of Recyclable Materials. Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and non-residential facilities and properties shall separate the following materials from post-consumer waste:

- 1) Lead acid batteries
- 2) Major appliances
- 3) Waste oil
- 4) Yard waste
- 5) Aluminum containers
- 6) Bi-metal containers
- 7) Corrugated paper or other container board
- 8) Foam polystyrene packaging
- 9) Glass containers
- 10) Magazines or other materials printed on similar paper

- 11) Newspapers or other materials printed on newsprint
- 12) Office paper
- 13) Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types
- 14) Steel containers
- 15) Waste tires

1.12 Separation Requirements Exempted. The separation requirements of sec. 1.11 do not apply to the following:

- 1) Occupants of single-family and two- to four-unit residences, multiple-family dwellings and non-residential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in sec. 1.11 from solid waste in as pure a form as is technically feasible.
- 2) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- 3) A recyclable material specified in sec. 1.11 for which a variance or exemption has been granted by the Department of Natural Resources under ss. 159.07(7)(d) or 159.11(2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

1.13 Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with sec. 1.11 shall be clean and kept free of contaminants, such as food or product residue, oil or grease, or other non-recyclable materials, including, but not limited to, household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions. The Recycling Administrator may hereafter promulgate additional separation, preparation, and care of recyclable material rules as may be necessary to preserve, protect, and enhance to collection, storage, and recycling of separable recyclable materials. All such rules shall be posted at the Town facility and included in the educational materials disseminated as part of the Town's total recycling program.

1.14 Management of Lead Acid Batteries, Major Appliances, Waste Oil, and Yard Waste. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste, as follows:

- 1) Lead acid batteries shall be deposited in the designated area at the Town facility during the days and hours of operation.
- 2) Major appliances shall be taken to Heim Recycling or such other license facility as may be designated by the Recycling Administrator.



3) Waste oil shall be poured into the designated collection tank at the Town facility during the days and hours of operation.

4) Yard waste shall be composted or otherwise lawfully disposed of upon the property upon which it was generated.

1.15 Preparation and Collection of Recyclable Materials. Except as otherwise directed by the Recycling Administrator, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the separated materials specified in sec. 1.11(5) through (15):

1) Aluminum containers shall be placed in the designated bin at the Town facility during the days and hours of operation.

2) Bi-metal containers shall be rinsed free of product residue and deposited in the designated bin at the Town facility during the days and hours of operation.

3) Corrugated paper or other container board shall be deposited in the designated bin at the Town facility during the days and hours of operation.

4) Foam polystyrene packing shall be deposited at the Town facility only upon further notification from the Recycling Administrator.

5) Glass containers shall be rinsed free of product residue and deposited in the designated bin at the Town facility during the days and hours of operation.

6) Magazines or other materials printed on similar paper shall be deposited in the designated bin at the Town facility during the days and hours of operation.

7) Newspapers or other materials printed on newsprint shall be deposited in the designated bin at the Town facility during the days and hours of operation.

8) Office paper shall be deposited in the designated bin at the Town facility during the days and hours of operation.

9) Plastic containers shall be prepared and collected as follows:

a) Plastic containers made of PETE and marked by SPI code No. 1 shall be rinsed free of product residue and deposited in the designated bin at the Town facility during the days and hours of operation.

b) Plastic containers made of HDPE and marked by SPI code No. 2, including milk jugs and detergent bottles, shall be rinsed free of product residue and deposited in the designated bin at the Town facility during the days and hours of operation.

- c) Plastic containers made of PVC and marked by SPI code No. 3 shall be deposited in the designated bin at the Town facility during the days and hours of operation.
  - d) Plastic containers made of LDPE shall be prepared and deposited at the Town facility only upon further notification from the Recycling Administrator.
  - e) Plastic containers made of PP shall be prepared and deposited at the Town facility only upon further notification from the Recycling Administrator.
  - f) Plastic containers made of PS shall be prepared and deposited at the Town facility only upon further notification from the Recycling Administrator.
  - g) Plastic containers made of mixed or other plastic resin types shall be prepared and deposited at the Town facility only upon further notification from the Recycling Administrator.
- 10) Steel containers shall be rinsed free of product residue and deposited in the designated bin at the Town facility during the days and hours of operation.
- 11) Waste tires shall be deposited in the container designated for same at the Town facility during the days and hours of operation.

#### 1.16 Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

- 1) Owners or designated agents of multiple-family dwellings shall do all of the following for recycling the materials specified in sec. 1.11(5) through (15):
- a) Provide adequate separate containers for the recyclable materials.
  - b) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  - c) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  - d) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.
- 2) The requirements specified in (1) do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in sec. 1.11(5) through (15) from solid waste in as pure a form as technically feasible.

### 1.17 Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

1) Owners or designated agents of non-residential facilities and properties shall do all of the following for recycling the materials specified in sec. 1.11(5) through (15):

- a) Provide adequate separate containers for the recyclable materials.
- b) Notify in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
- c) Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.
- d) Notify users, tenants, and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

2) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in sec. 1.11(5) through (15) from solid waste in as pure a form as is technically feasible.

1.18 Prohibitions on Disposal of Recyclable Materials. No person may dispose of, in a solid waste disposal facility or burn in a solid waste treatment facility, any of the materials specified in sec. 1.11(5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

### 1.19 Enforcement.

1) Any authorized officer, employee, or representative of the Town of Eaton or Recycling Administrator may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling activities for the purpose of ascertaining compliance with the provisions of this ordinance. No person may refuse access to any authorized officer, employee, or authorized representative of the Town of Eaton or Recycling Administrator who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

2) Any person who violates a provision of this ordinance may be issued a citation by the Recycling Administrator to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinances or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

3) Penalties for violating this ordinance may be assessed as follows:

- a) Any person who violates sec. 1.18 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation.
- b) Any person who violates a provision of the ordinance, except sec. 1.18, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.
- c) In addition to the forfeitures provided herein, any person who violates this ordinance shall pay court costs and the actual attorney's fees incurred by the Town prosecuting such violation.

1.20 Burning Permitted. Burn barrel permits may be obtained from the Wisconsin Department of Natural Resources. However, open burning shall be permitted only of clean wood and paper products, and no burning is allowed without a permit granted by the Wisconsin Department of Natural Resources. Any person engaging in open burning outside of a burn barrel shall, prior to such burning, contact the Brown County Sheriff's Department to advise as to the location and nature of the intended burning. The cost(s) of all fire calls which result from the failure to notify the Brown County Sheriff concerning such non-burn barrel burning shall be charged against the violator and may be collected in a suit at law by the Town of Eaton against the violator, including the costs of prosecuting such action and the actual attorney's fees incurred by the Town in any such proceeding.

## **TELECOMMUNICATIONS ORDINANCE OF THE TOWN OF EATON, BROWN COUNTY, WISCONSIN**

The Town Board of the Town of Eaton, Brown County, Wisconsin, does ordain as follows:

Section 1: Standards for telecommunications antennas and towers is created to read as follows:

### TELECOMMUNICATIONS ANTENNAS AND TOWERS

A. DEFINITIONS. As used in this article, the following terms shall have the meanings indicated:

1. Alternative tower structure shall mean man-made structures, such as elevated tanks, electric utility transmission line towers, non-residential 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.
2. Antenna shall mean exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.
3. FAA shall mean the Federal Aviation Administration.
4. FCC shall mean the Federal Communications Commission.
5. Governing authority shall mean the governing authority of the Town of Eaton.
6. Pre-existing towers and antennas shall have the meaning set forth in Section B. (4) of this article.
7. Height shall mean, when referring to a tower or to the structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
8. Tower shall mean 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, microwave towers, common-carrier towers, cellular telephone towers, PCS towers, alternative tower structures, and the like.

## APPLICABILITY

9. District Height Limitations. The requirements set forth in this article 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 building and structures shall not apply to towers and antennas. However, in no case shall any towers exceed the following height limitations:
  - a. for a single user, up to ninety (90) feet in height;
  - b. for two users, up to one hundred twenty (120) feet in height;
  - c. for three or more users, up to one hundred fifty (150) feet in height.
10. Public Property: Antennas located on property owned, leased, or otherwise controlled by 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.
11. Amateur Radio – Receive-only Antennas: This article shall not govern any towers or the installation of any antennas that are under ninety (90) feet in height and are owned and operated by a federally-licensed amateur radio station operator or are used exclusively as a receive-only antenna.
12. Pre-existing Towers and Antennas: Any tower or antenna for which a permit has been properly issued prior to the effective date of this article shall not be required to meet the requirement of this article, other than the requirements of Sections C.5 and C.6. Any such towers or antennas shall be referred to in this article as “pre-existing towers” or “pre-existing antennas.”

## GENERAL GUIDELINES AND REQUIREMENTS

13. Purpose Goals: The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to: 1) encourage the location of towers in non-residential areas and minimize the total number of towers throughout the community; 2) strongly encourage the joint use of new and existing tower sites; 3) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; 4) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and 5) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

14. **Principal or Accessory Use:** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers 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 with such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
15. **Inventory of Existing Sites:** Each applicant for an antenna and/or tower shall provide to the Planning and Zoning Department an inventory of its existing towers that is 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 Planning and Zoning Department may share such information with other applicants applying for administrative approvals or conditional use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
16. **Aesthetics and Lighting:** The guidelines set forth in the Section C. 4 shall govern the location of all towers and the installation of all antennas governed by the article, provided, however, that the governing authority may waive these requirements if it determines that the goals of this article are better served thereby.
  - 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 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 posed no more than six feet above the ground on a placard no larger than 1-1/2 square foot.
- 
- 17. Federal Requirement: 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 article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) 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.
  - 18. 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 thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (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.

#### PERMITTED USES

- 19. General: The uses listed in this Section D. are deemed to be permitted uses and shall not require a conditional use permit. Nevertheless, all such shall comply with Section C. of this article and all other applicable articles.
- 20. Specific Permitted Uses: The following uses are specifically permitted:



- a. Installing an antenna on an existing alternative tower structure, as long as said additional antenna adds not more than twenty (20) feet to the height of said existing structure; and
- b. Installing an antenna on an existing tower of any height, including a pre-existing, and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, as long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.

## CONDITIONAL USE PERMITS

21. General. The following provisions shall govern conditional use permits:
  - a. If the tower or antenna is not a permitted use under Section D. of this article, then a conditional use permit shall be required prior to construction of any tower or the placement of any antennas.
  - b. Towers and antennas may be located in all zoning districts.
  - c. 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 adjoining properties.
  - d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
22. Information Required. Each applicant requesting a conditional use permit under this article shall submit a scaled elevation view and other support drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals showing the location and dimensions of all improvements, including information concerning topography frequency coverage, tower height requirement, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this article.
23. 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.
  - a. Height of the proposed tower.
  - b. Co-location. Any proposed commercial wireless telecommunications service tower shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Towers must be

designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

- c. Proximity of the tower to residential structures and residential district boundaries.
  - d. Nature of uses on adjacent and nearby properties.
  - e. Surrounding topography.
  - f. Surrounding tree coverage and foliage.
  - g. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - h. Proposed ingress and egress.
  - i. Availability of suitable existing towers and other structures as discussed in Section E. 4 of this article.
24. 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 structure unsuitable.
25. Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a conditional use permit is required, provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby.
- a. The Town Board may allow the applicant to locate the tower on a site where, in the opinion of the Town Board, the site is of sufficient size and the tower structurally designed so that, in the event of a structural

collapse of the tower or any tower component, the site will contain the structural collapse on and within the site.

- b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.

26. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required, provided, however, that the governing authority may waive such requirements if the goals of this article would be better served thereby.

- a. Tower facilities shall be landscaped with a mixture of deciduous and evergreen trees and shrubs that effectively screen the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be sufficient buffer.
- d. The base of the tower shall be fenced with materials impervious to sight and secured so that it is not accessible by the general public.

#### F. REMOVAL OF ABANDONED ANTENNAS AND TOWERS

- 1. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within thirty (30) days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said thirty (30) 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.
- 2. Used portions of tower above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

G. Interference. The towers shall be shielded, filtered, and grounded in a manner consistent with FCC and Electronic Industries Association guidelines so as to minimize the possibility of interference with locally received transmission. Additionally, the owner and operator of such towers shall execute an agreement

holding the tower harmless for any transmissions or reception interference caused by such towers.

Section 3:

This ordinance shall take effect immediately upon passage and publication as provided by law.

## **ORDINANCE FOR DRIVEWAY PERMITS AND TEMPORARY ACCESS PERMIT**

It is Hereby Ordained by the Town Board of Eaton, Brown County, as follows:

### **DRIVEWAY PERMITS**

#### **A. PURPOSE**

For the safety of the general public, the Town of Eaton shall determine the location, size, and construction of driveways within the Town limits and the minimum requirements and technical standards for culverts and drainage structures within the Town.

#### **B. PERMIT REQUIRED**

Prior to the time the use of a property served by a driveway changes, the owner and/or other necessary parties shall apply for and obtain a driveway permit from the Town of Eaton. No person or business entity shall construct, reconstruct, pave, alter, or enlarge any private driveway or install, reinstall, replace, or move a culvert within the Town without first obtaining a driveway permit as required in this chapter. Where a new driveway is to be constructed in conjunction with the construction of a new principal structure, this driveway permit shall be issued along with the building permit. No person shall commence work on any driveway or culvert before the driveway permit has been issued. Payment of any applicable fees is a requisite of permit issuance.

#### **C. APPLICATION**

Application for a driveway permit shall be made in writing by the owner or his agent upon forms issued by the Town Zoning Administrator and shall be accompanied by a drawing accurately depicting the proposed driveway to be constructed, reconstructed, altered, or enlarged and a description of the culvert construction. The drawing shall include the following:

1. The location of existing and proposed improvements, including driveway width, shall be identified on the drawing.
2. All numbers and writing shall be legible.
3. The drawing must show building setbacks from all lot lines and must show the nearest building corner.
4. The property, roadway right-of-way widths, road names, and name of person for whom work is being done shall be identified.
5. All driveway permit applications shall contain the applicant's statement that

- a. The applicant represents all parties in interest and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.
- b. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs, or relocations within the dedicated portion of the Town road or street at any time, including relocation, reconstruction, widening, and maintaining the street, and compensation will be determined on an individual basis prior to construction.
- c. The permittee, his successors, or assigns agree to indemnify and hold harmless the Town of Eaton, its officials, officers, agents, or employees against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- d. The Town does not assume any responsibility for the removal or clearance of snow, ice, or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Town road or street.

6. The Town Board shall review all applications at a regular meeting.

#### **D. DRIVEWAY CONSTRUCTION STANDARDS**

- 1. All driveways shall, wherever possible, follow the Eaton Comprehensive Plan of conserving farmland.
- 2. Driveway widths at the property line shall be as follows:
  - a. Residential - minimum twelve (12) feet at the property line and minimum twenty (20) feet at the curb line or pavement edge, with a minimum twelve (12) feet thereafter for single-type driveway. Minimum twenty (20) feet wide at the property line and minimum twenty-eight (28) feet at the curb line or pavement edge for double-type driveway, with minimum twenty (20) feet thereafter.
  - b. Business/Industrial - minimum twenty-four (24) feet at the property line, thirty-two (32) feet at the curb line, minimum twenty (20) feet thereafter.
  - c. Agricultural field entrance - minimum thirty (30) feet wide.
- 3. Driveways with a length greater than two hundred (200) feet that end in a dead end are required to have a turnaround or cul-de-sac sufficient for a turn around

for the safety and ease of all emergency vehicles.

4. Residential driveways shall intersect the public road at right angles from the property line.
5. Business/industrial driveways shall intersect the public road at angles not less than seventy (70) degrees from the property line.
6. No improvements shall be constructed within the road right-of-way in the proximity of the driveway that would block driver vision (from driveway or roadway) or impair drainage.
7. The number of driveways to serve an individual residential or commercial property fronting on a street shall be one (1), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience, and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.
8. Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town Board.
9. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only when the following requirements are complied with:
  - a. The filling or draining shall be to grades approved by the Town Board and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
  - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than three hundred (300) feet and/or where a bend or curve in the pipe is required.
  - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail, or posts as may be required by the Town Board.
10. All driveway entrances and approaches shall be constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way.

11. Any changes in existing elevations should be verified with utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.
12. No driveway shall be closer than twenty-five (25) feet to the extended street line at an intersection.
13. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

**E. APPEAL FROM PERMIT REFUSAL**

Any person feeling himself aggrieved by the refusal of the Town Board to issue a permit for a private driveway may appeal such refusal to the Board of Appeals within twenty (20) days after such refusal to issue such permit is made.

**F. CULVERT CONSTRUCTION STANDARDS**

1. **Size:** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than eighteen (18) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. Culverts shall be constructed of galvanized steel or plastic and shall be of new manufacture. Driveways serving business, industrial, or commercial properties having regular heavy vehicles shall be evaluated case by case for special considerations. Stronger materials and installation requirements may be required. Bridges and culverts must be able to carry a weight load of at least twenty-five (25) ton and be able to withstand water from a twenty-five (25) year flood.
2. **Gauge:** The minimum wall thickness for the galvanized steel shall be in accordance with the following:

<b>Pipe Diameter</b>	<b>Gauge</b>
18 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

Plastic culverts shall be a minimum of eighteen (18) inches in diameter with smooth lined interior. A minimum of eighteen (18) inches of fill is put over the top of the plastic culvert.



Steel culverts shall have a minimum of six (6) inches of fill put over the top of the culvert.

All culverts must have a base of three-quarter (3/4) inch stone compacted with fines.

## **G. DRAINAGE**

The culverts shall be placed in the ditch line at elevations that will ensure proper drainage.

## **H. ENDWALLS**

Culverts shall be provided with galvanized steel or plastic apron endwalls tapered to a two (2) to one (1) slope, as directed by the Town Board.

## **I. BACKFILL MATERIAL**

Material used for backfill shall be of a quality acceptable to the Town Board and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches for galvanized steel and eighteen (18) inches for plastic.

## **J. EROSION CONTROL**

Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Town Board.

## **K. COST**

The property owner shall install the culvert and be responsible for the cost thereof.

## **L. WAIVER**

The Town Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary.

## **M. ENFORCEMENT**

All costs incurred by the Town relating to the enforcement of this chapter or in making the determinations or inspections necessary hereunder shall be paid by the property owner including, but not limited to, Town administrative costs and attorney's fees. If a property owner refuses to comply with the chapter, the Town may install the culverts and charge back the cost or additional cost thereof as a special charge pursuant to Sec. 66.60 (16) Wis. Stats.

## **TEMPORARY ACCESS PERMIT**

### **A. TEMPORARY PERMIT**

The Town of Eaton may issue a temporary permit allowing access to a roadway during construction only.

### **B. APPLICATION**

Application for a temporary access permit shall be in writing signed by the applicant and the owner of the real estate affected or the owner's agent and shall be made to the Town Zoning Administrator. The application shall include a site plan showing the proposed location of the access driveway.

### **C. APPLICATION PROVISIONS**

1. The application shall contain the applicant's statement that:
  - a. The applicant and owner are agreeing to construct and maintain a gravel access of sufficient width and length to prevent sediment from being tracked onto public and private roadways. The applicant and owner are agreeing that any sediment which reaches a public or private road shall be removed by street cleaning (not flushing) before the end of each day.
  - b. The applicant represents all parties in interest and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.
  - c. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs, or relocations within the dedicated portion of the Town road or street at any time, including relocation, construction, widening, and maintaining the street, and compensation will be determined on an individual basis prior to construction.
  - d. The permittee, his successors, or assigns agree to indemnify and hold harmless the Town of Eaton, its officials, officers, agents, or employees against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
  - e. The Town does not assume any responsibility for the removal or clearance of snow, ice, or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Town road or

street.

2. The Town Board shall review all applications at a regular meeting.

#### **D. DESIGN CRITERIA AND REQUIREMENTS**

1. **Timing:** The gravel access shall be installed as part of the initial erosion control prior to any grading activities.
2. **Maintenance:** The gravel access shall remain in place and be maintained until the disturbed area is stabilized by permanent best management practices. The gravel access shall be inspected daily. All areas filled with silts and mud will be repaired or replaced immediately.
3. **Removal:** When use of the temporary access driveway is terminated, the gravel and culvert shall be removed and the area restored with topsoil, seed, and mulch or as provided in an approved development/landscape plan.
4. **Location:** The gravel access shall be located to provide maximum use by all construction vehicles.
5. **Dimensions:** The gravel access shall consist of at least six (6) inches of two (2) to three (3) inch clear aggregate, be a minimum of fifty (50) feet in length or the distance from the road to the specific construction area, whichever is less, and be at least sixteen (16) feet in width. The width shall be eighteen (18) feet if it is necessary to have vehicles pass on the site.
6. **Drainage:** A properly sized culvert shall be installed in the road ditch. The minimum size allowed is eighteen (18) inches, and no end sections are required.
7. **Signage:** Where visibility is restricted, appropriate traffic warning signs shall be installed and maintained.

#### **E. EROSION CONTROL**

Erosion control measures shall be implemented as necessary to control erosion.



**LARGE AND SMALL WIND ENERGY ORDINANCE  
ADOPTED JUNE 2008**

**11.00 TITLE**

This ordinance shall be known as, referred to, or cited as The Large and Small Wind Energy Ordinance, Town of Eaton, Brown County, Wisconsin.

**11.01 APPLICABILITY**

- (A) The requirements of this ordinance shall apply to all wind energy facilities (large and small) for which an application for a conditional use permit has been submitted to the Town of Eaton after the effective date of this ordinance.
- (B) Wind energy facilities for which a required permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; provided, however, that any such pre-existing wind energy facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this ordinance prior to recommencing production of energy. However, no modification or alteration to an existing wind energy facility shall be allowed without full compliance with this ordinance.

**11.02 PURPOSE**

- (A) The purpose of this ordinance is to provide a regulatory means for the construction and operation of large and small wind energy facilities in the Town of Eaton, subject to reasonable restrictions, which will preserve the public health and safety.

**11.03 DEFINITIONS**

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

- (A) **Decommissioning:** The process of use termination and removal of all or part of a large wind energy facility by the owner or assigns of the large wind energy facility.
- (A) **FAA:** The Federal Aviation Administration.
- (B) **Hub Height:** When referring to a wind turbine, the distance measured from ground level to the center of the turbine hub.
- (C) **Karst Feature:** An area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include areas with soils less than 60 inches thick over bedrock, caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, swallets, and depressional areas with no surface drainage.
- (D) **MET Tower:** A meteorological tower used for the measurement of wind speed.
- (F) **Owner:** The individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.
- (G) **Planning and Zoning Board:** The Town of Eaton Planning and Zoning Board.
- (H) **Rotor Diameter:** Means the cross sectional dimension of the circle swept by the rotating blades.
- (I) **Total Height:** When referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point.

**(J) Tower:** Means the monopole, freestanding, or guyed structure that supports a wind generator.

**(K) Town:** Town of Eaton, Brown County, Wisconsin

**(L) Use Termination:** The point in time at which a large wind energy facility owner provides notice to the Town of Eaton that the large wind energy facility or individual wind turbines are no longer used to produce electricity unless due to repairs. Such notice of use termination shall occur no less than 30 days prior to actual use termination.

**(M) Wind Energy Facility, Large:** A facility that generates electricity or performs other work consisting of one or more wind turbines under common ownership or operating control, and includes substations, MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers. It includes substations, MET towers, cables and wires and other buildings accessory to such facility.

**(N) Wind Energy Facility, Small:** A single wind energy system that generates electricity or performs other work, has a total height of 170 feet or less and has a name plate capacity of 100 kilowatts or less. Any wind energy facilities not falling under this definition shall be deemed large wind energy facilities.

**(O) Wind Farm:** Two or more wind turbines under common ownership.

**(P) Wind Generator:** Means blades and associated mechanical and electrical conversion components mounted on top of the tower.

**(Q) Wind Turbine:** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base, and pad transformer, if any.

#### **11.04 REGULATORY FRAMEWORK**

##### **(A) Zoning**

Large wind energy facilities may only be constructed in areas that are zoned Exclusive Agriculture with an approved conditional use permit from the Town of Eaton.

Small wind energy facilities may be constructed in all zoning districts with an approved conditional use permit from the Town of Eaton provided all setbacks and other restrictions for public health and safety are met.

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

**(1)** An applicant for a large wind energy facility may request, a pre-application public meeting with the Town Board and the Town Zoning and Planning Board, at which no official town action shall be taken. A pre-application public meeting may be held in order for the applicant to:

- (a)** Inform town residents of the project and applicant's background in large wind energy projects.

- (b) Provide informational displays of the areas of the town that meet the requirements of the town ordinance and are likely locations for a wind turbine tower.
  - (c) Provide answers to town resident questions.
  - (d) Solicit input from town residents regarding locations for wind turbine towers within the areas of the town that meet the requirements of the town ordinance, so that exact locations of wind turbine towers may be identified on the conditional use application by the applicant when submitted to the town.
  - (e) Town residents not able to attend the meeting shall have the option to provide written comments or questions to the applicant.
  - (f) In no instance shall this meeting take the place of a formal public hearing for the conditional use permit.
- (2) Application for a conditional use permit for a large or small wind energy facility shall be submitted to the town with the following information:
- (a) The name, address, legal corporate status and telephone number of the applicant responsible for the accuracy of the application and site plan.
  - (b) The name, address, legal corporate status and telephone number of the owner of the proposed large wind energy facility.
  - (c) A signed statement indicating that the applicant has legal authority to construct, operate, and develop the wind energy facilities under state, federal and local laws and regulations, including Federal Aviation Administration (FAA), Federal Communications Commission (FCC), state and local building codes.
  - (d) The applicant shall also provide copies of the contract with the local electrical utility, the Proof of a Certificate of Authority from the Public Service Commission of Wisconsin and the Public Service Commission of Wisconsin Environmental Assessment, if applicable.
  - (e) A description of the number and kind of wind energy facilities to be installed.
  - (f) A description of the large or small wind energy facilities' height and design, including a cross section, elevation, and diagram of how the wind energy facilities will be anchored to the ground, prepared by a professional engineer licensed in the State of Wisconsin.
  - (g) A site plan, drawn to a scale of not less than 1 inch to 100 feet for large scale wind energy facilities or 1 inch to 50 feet for small scale wind energy facilities, showing the parcel boundaries and a legal description, 2-foot contours for the subject site and 100 feet beyond the subject site, karst features, support facilities, access, proposed landscaping and fencing.

- (h) A detailed overview map, including parcel lines, of the precise location for all large and small wind turbine towers as part of the proposed project in the Town of Eaton.
  - (i) Tower foundation blueprints or drawings.
  - (j) Tower blueprints or drawings.
  - (k) Photo exhibits for large wind energy facilities visualizing the proposed wind energy facilities.
  - (l) A statement from the applicant that all wind energy facilities will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.
  - (m) A signed statement by the landowner that a lease has been executed with the applicant if the applicant does not own the land where the proposed large wind energy facility (s) is proposed to be located.
  - (n) A signed statement from the landowner of the leased site that he/she will abide by all applicable terms and conditions of the conditional use permit, if approved.
  - (o) A signed statement from the applicant that he/she will abide by all applicable terms and conditions of the conditional use permit, if approved.
  - (p) A statement indicating what hazardous materials will be used and stored on the site, and, how those materials will be stored.
  - (q) A statement indicating how the wind energy facility will be lit, if applicable.
  - (r) A signed letter from a utility that a purchase power agreement (PPA) is in place, as applicable.
  - (s) All conditional use permit applications for large and small wind energy projects shall adhere to the standard review process established by the Town of Eaton in the Town of Eaton Code of Ordinances.
- (3) A site grading, erosion control, and stormwater drainage plan shall be submitted to the Town Engineer for review and approval prior to granting building permit.
  - (4) All other permits, including those for work done in rights-of-way shall be applied for by the applicant to the appropriate agency prior to construction.
  - (5) Wind energy facilities shall not include offices, vehicle storage, or other outdoor storage. One accessory storage building may be permitted per large wind turbine at Town Board discretion. The size and location of any proposed accessory building shall be shown on the site plan. No other structure or building accessory to the wind energy facility is permitted unless used for the express purpose of the generation of electricity.
  - (6) Applicant may submit one conditional use permit application for entire large wind energy facility project or small wind energy project located in the Town of Eaton, provided that a detailed map identifying the precise location of all



proposed wind turbine towers is provided to the Town of Eaton at time of submittal of conditional use application. If a detailed map identifying the precise location of all proposed wind turbine towers is not provided at time of submittal, a conditional use permit that details the precise location shall be required for each individual wind turbine tower.

- (7) No grading, filling, or construction shall begin until the Town of Eaton Building Inspector issues a building permit. A separate building permit shall be required for each wind turbine to be constructed.
- (8) A certificate of insurance with a minimum of \$2,000,000 liability coverage per incidence, per occurrence shall be required for large wind energy facilities. Each renewal period will require that a copy of certificate of insurance be provided to the Town of Eaton. An expired insurance certificate or an unacceptable liability coverage amount is grounds for revocation of the conditional use permit.
- (9) The town shall require an irrevocable letter of credit, bond, or cash escrow, held in trust in favor of the Town of Eaton to recover the costs associated with removal of a use terminated large wind generator and appurtenant facilities. The amount of the irrevocable letter of credit, bond, or cash escrow shall be set by the Town of Eaton prior to conditional use permit approval and shall remain in effect until released by the town.
- (10) A wind energy facility authorized by conditional use permit shall be started within twelve (12) months of conditional use permit issuance and completed within thirty-six (36) months of conditional use permit issuance, or in accordance with a timeline approved by the Town Board. Upon request of an applicant, and for good cause, the Town Board may grant an extension of time.
- (11) For large wind energy projects, the applicant shall submit a copy of all "as built plans" including structural engineering and electrical plans for all towers following construction to the town to use for removal of large wind energy facility, if large wind energy facility owner or its assigns fails to meet the requirements of this ordinance.
- (12) The town may require additional conditions to ensure safety.

#### **(B) Principal or Accessory Use**

- (1) Wind energy facilities may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a wind energy facility or a part of such facility on such lot. Wind energy facilities that are constructed and installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (2) A building permit, issued by the Town of Eaton Zoning Administrator, shall be required for each individual wind turbine prior to construction of said wind turbine.

### **11.05 GENERAL REQUIREMENTS FOR WIND ENERGY FACILITIES**

## **(A) Design and Installation**

- (1)** Wind turbines shall be painted a non-reflective, non-obtrusive color, such as grey, white, or off-white.
- (2)** At large wind energy facility sites, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the large wind energy facility to the natural setting and existing environment.
- (3)** All landscaping must be properly maintained, including grass cutting.
- (4)** Minimum lighting necessary for safety and security purposes shall be permitted. Techniques shall be implemented to prevent casting glare from the site, except as otherwise required by the FAA or other applicable authority.
- (5)** No form of advertising shall be allowed on the pole, turbine, blades, or other buildings or facilities associated with the use, except for reasonable identification of the manufacturer or contact information of the operator of the wind energy facility.
- (6)** All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- (7)** To the extent applicable, all wind energy facilities shall comply with all applicable building codes and standards.
- (8)** Electrical controls, control wiring, and power lines shall be wireless or not above ground except where wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
- (9)** All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
- (10)** The owner of a wind energy facility shall defend, indemnify, and hold harmless the Town of Eaton and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the acts or omissions of the operator or the operator's contractors concerning the construction or operation of the wind energy facility without limitation, whether said liability is premised on contract or tort.
- (11)** The owner of a large wind energy facility (applicant) shall reimburse the town and/or county for any and all repairs and reconstruction to the public roads, culverts, and natural drainageways resulting directly from the construction of the large wind energy facility. A qualified independent third party, agreed to by the town and/or county and applicant, and paid for by the applicant, shall be hired to inspect the roadways to be used during construction. This third party shall be hired to evaluate, document, videotape, and rate road conditions prior

to the construction of the large wind energy facility and again within 30 days after the large wind energy facility project is complete. Any road damage done by the applicant or subcontractors shall be repaired or reconstructed at the applicant's expense.

- (12) Where wind energy facility construction cuts through a private or public drain tile field, the drain tile must be repaired and reconnected to properly drain the site to the satisfaction of the landowner.
- (13) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
- (14) Any recorded access easement across private lands to a wind energy facility shall in addition to naming the wind energy facility owner as having access to the easement shall also name the Town of Eaton as having access to the easement for purposes of inspection or decommissioning with 24-hour advance notice to the property owners and wind energy facility owner, if different.
- (15) The owner of a large wind energy facility shall reimburse the Town of Eaton for any and all legal notices, meeting fees, and reasonable fees for consulting, legal advice, and engineering. The town shall submit copies of all related town-paid invoices to the large wind energy facility owner for repayment to the town.
- (16) Any wind energy turbine or facility that does not produce energy for a continuous period of twelve months shall be considered abandoned and shall be removed in accord with the removal provisions of Section 11.15 of this Ordinance.
- (17) A large wind energy facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

#### **11.06 SETBACKS**

(A) The following setbacks and separation requirements shall apply to all wind turbines.

##### **(1) Inhabited Structures**

- (a) Each wind turbine associated with a large scale wind energy facility shall be set back from the nearest residence, school, hospital, church, or public library a distance of no less than the greater of two (2) times its total height or one thousand (1,000) feet.
  - i) The Eaton Town Board may grant a waiver to this requirement for a participating and/or non-participating landowner to decrease the setback. In no instance shall the setback be decreased to less than 1.1 times the total height of the wind turbine. This waiver shall be signed by the impacted property owner(s) and recorded with the property with the Brown County Register of Deeds.
- (b) Each wind turbine associated with a small scale wind energy facility shall be set back from the nearest residence, school, hospital, church, or public library a distance of no less than 1.1 times its total height.

## **(2) Property Lines**

- (a)** Each wind turbine shall be setback from the nearest non-participating landowner's property line a distance no less than 1.1 times its total height.
  - i)** The Eaton Town Board may grant a waiver to this provision where strict enforcement would not serve the public interest. This waiver shall be signed by the impacted property owner(s) and recorded with the property with the Brown County Register of Deeds.

## **(3) Public Roads**

- (a)** Each wind turbine shall be set back from the nearest public road right-of-way a distance of no less than 1.1 times its total height.
  - i)** The Eaton Town Board may grant a waiver to this provision where strict enforcement would not serve the public interest.

## **(4) Communication and Utility Lines**

- (a)** Wind energy facilities must meet all utility company setbacks and/or easements. The owner of the wind energy facility is responsible for contacting the appropriate utility or private owner to determine location of all above and underground utility lines located on the site including, but not limited to, electricity, natural gas, petroleum, propane, cable television, communication and fiber optic.
- (b)** Utility line and/or easement locations shall be provided to the Town of Eaton for verification.

### **11.07 NOISE AND VIBRATION**

- (A)** Audible noise due to wind energy facility operations shall not exceed fifty (50) dBA for ten percent of the time over any continuous 24 hour period, when measured at any residence, school, hospital, church, or public library existing on the date of approval of a large wind energy facility building permit.
  - (1)** If audible noise exceeds 50 dBA for ten percent of the time over a continuous 24 hour period, the offending wind turbine must be inoperable until repairs are completed, or a waiver is obtained from affected property owners in accordance with 11.07(F).
  - (2)** The Town of Eaton reserves the right to review the repair plan and evaluate its effectiveness.
- (B)** Wind energy facilities shall not create an audible steady, pure tone such as a whine, screech, hum, or vibration.
- (C)** In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches, and public libraries. Ambient noise level measurement

techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise level measurement location.

- (D) Any noise level emanating from a wind energy facility falling between two whole decibels shall be determined to be the higher of the two.
- (E) Any noise monitoring or measurements, with need determined by the Eaton Town Board, shall be paid for by the applicant or wind turbine facility owner.
- (F) In the event the noise levels resulting from the wind energy facility exceed the criteria listed above, a waiver to said levels may be granted by the town provided that the following has been accomplished:
  - (1) Written consent from the affected property owners has been obtained stating that they are aware of the large wind energy facility and noise limitations imposed by this ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and,
  - (2) A permanent noise impact easement has been recorded in the Brown County Register of Deeds which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this ordinance may exist on or at the burdened property.

#### **11.08 MINIMUM GROUND CLEARANCE**

- (A) The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

#### **11.09 SIGNAL INTERFERENCE**

- (A) The applicant shall mitigate any interference with electromagnetic communications, such as radio, telephone, computers, communication devices, or television signals, including any public agency radio systems, caused by any large wind energy facility. In no case, however, shall a wind energy facility be located within the microwave path of an emergency communication tower. (If the applicant is a public utility, s. PSC 113.0707 also applies).

#### **11.10 SHADOW FLICKER**

- (A) The wind energy facility owner and/or operator shall make reasonable efforts to minimize or mitigate shadow flicker to any residence on non-participating landowners' property.

#### **11.11 ICE SHEDDING**

- (A) The wind energy facility owner and/or operator shall ensure that ice from the wind turbine blades does not impact any non-participating landowners' property.

#### **11.12 AVIAN RISK**

- (A) The wind energy facility owner and/or operator shall make reasonable efforts to minimize avian mortality from the operation of a large wind energy facility. The Town of Rockland Town Board may require an avian risk study prior to issuance of

a conditional use permit for a large wind energy facility.

### **11.13 WASTE MANAGEMENT**

- (A) All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards and any Town, County, or State of Wisconsin regulations.
- (B) All hazardous waste generated by the operation and maintenance of the facility, including, but not limited to lubricating materials, shall be handled in a manner consistent with all local, state, and federal rules and regulations.

### **11.14 SAFETY**

- (A) All wiring between wind turbines and the wind energy facility substation shall be underground, if applicable.
- (B) Wind turbine towers shall not be climbable up to fifteen (15) feet above ground level and all large wind turbine tower access ladders must be located inside of the tower.
- (C) All access doors to wind turbine towers and electrical equipment shall be locked.
- (D) Any accessory structures on site shall have a concrete roof to protect the structure from snow and ice shedding.
- (E) Appropriate warning and caution signage shall be placed on wind turbine towers, electrical equipment, and wind energy facility entrances.
- (F) A large wind energy facility site and all structures shall have an annual inspection report of structural stability by a professional engineer licensed in the State of Wisconsin, at cost to the large wind energy facility owner, with a report filed with the Eaton Town Clerk. Any deficiencies found shall be repaired in a timely manner.
- (G) The owner/operator of a large wind energy facility shall coordinate with the Wisconsin Public Service Commission (PSC) to test for stray voltage before, during, and after construction upon request by the Eaton Zoning Administrator.
- (H) All substations shall be fenced to prevent public access. Chain link fencing shall include vinyl or aluminum slats or other landscaping to create an opaque visual barrier.
- (I) The owner/operator of a large wind energy facility shall post and maintain at each facility a clearly posted 24-hour a day manned telephone number in case of an emergency.
- (J) The owner/operator of a large wind energy facility shall provide qualified personnel to conduct training sessions to emergency responders whenever requested.
- (K) The owner/operator of a large wind energy facility shall provide a company representative to accompany the local Fire Department Fire Inspector during site visits. The owner/operator of a large wind energy facility shall comply with all applicable laws regarding those inspections.
- (L) The owner/operator of a large wind energy facility shall be responsible for the total cost of any incident(s) that occur on or at their facilities and/or properties.

### **11.15 REMOVAL**

- (A) All wind generators and appurtenances shall be removed from the site within seven

months or 210 calendar days of use termination notice to the Town of Eaton by the owner of the facility or its assigns.

- (1) Upon request of the owner or assigns of the wind energy facility, and for good cause, the Eaton Town Board may grant a reasonable extension of time.
- (B) The site shall be stabilized, graded, and cleared of any debris by the owner of the facility or its assigns. If site is not to be used for agricultural practices following removal, site shall be seeded to prevent soil erosion.
- (C) Any foundation shall be removed to a minimum depth of four (4) feet below grade, or to the level of the bedrock if less than four (4) feet below grade, by the owner of the facility or its assigns.
  - (1) Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the Brown County Register of Deeds.
- (D) Any access roads shall be removed, cleared, and graded by the owner of the facility or its assigns, unless the property owner wants to keep the access road. The Town of Eaton will not be assumed to take ownership of any access road unless through official action of the Town Board.
- (E) Any expenses related to releasing any easements to the site after decommissioning and removal shall be the responsibility of the wind energy system owner.
- (F) Removal shall conform to the contract between property owner and the owner/operator of a wind energy facility, in addition to the requirements set forth in this ordinance.

#### **11.16 PENALTIES**

- (A) Any wind generation facility, turbine or appurtenant facility hereinafter significantly erected, moved or structurally altered in violation of the provisions of this ordinance by any person, firm, association, corporation (including building contractors) or his or their agent shall be deemed an unlawful structure.
- (B) Any wind generation facility that does not meet the requirements of this ordinance, including, but not limited to those dealing with noise or visual appearance, or does not meet the conditions attached to an approved conditional use permit shall provide grounds for revocation of the conditional use permit, thereby deeming the facility an unlawful structure.
- (C) The Zoning Administrator shall report all such violations to the Town Board who may then refer the matter to the town attorney to bring action to enjoin the erection, moving or structural alteration of such facility or to cause such facility to be vacated or removed.
- (D) Any person, firm or corporation, or agent, employee, or contractor of such, who violates, destroys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this ordinance; shall upon conviction thereof forfeit no less than \$10,000 per offense together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment of said forfeiture and costs of prosecution are made. Confinement to

the county jail shall not exceed 30 days for each offense. Each violation and each day of violation shall constitute a separate offense.

- (E) This section shall not preclude the Town of Eaton from maintaining any appropriate action to prevent or remove a violation of this section.

**11.17 REVIEW**

- (A) Nothing in this ordinance shall be construed as limiting an aggrieved person's right to a Certiorari Review in Circuit Court as permitted by Wisconsin Law.

**11.18 SEVERABILITY**

- (A) The sections, paragraphs, sentences, clauses, articles and phrases of this chapter are severable; if any provision of this ordinance is found to be unconstitutional, invalid or unenforceable, such finding shall not affect the remaining portions of this ordinance.