

TITLE 13 – *DRAFT 05.01.18*

Zoning

Chapter1

Zoning Code

DRAFT

Article A Introduction

13-1-1	Authority	6
13-1-2	Short Title	6
13-1-3	Purpose	6
13-1-4	Intent	6
13-1-5	Abrogation and Greater Restrictions	6
13-1-6	Interpretation	7
13-1-7	Effective Date	7
13-1-8	Severability and Non-Liability	7
13-1-9 through 13-1-19	RESERVED FOR FUTURE USE	7

Article B General Provisions

13-1-20	Jurisdiction and Compliance	8
13-1-21	General Use Restrictions	8
13-1-22	Site Regulations	10
13-1-23	Highway Setback Lines	10
13-1-24	Physical Requirements Applying to Single- & Two-Family Residential Dwellings	12
13-1-25	Shoreland and Floodplain Zoning	13
13-1-26 through 13-1-39	RESERVED FOR FUTURE USE	13

Article C Zoning Districts

13-1-40	Zoning Districts Designated	14
13-1-41	District Boundaries	14
13-1-42	A-1 Agricultural Preservation District	14
13-1-43	A-2 Agricultural District	17
13-1-44	R-1 Residential District	19
13-1-45	C-1 Commercial District	22
13-1-46	I-1 Industrial District	24
13-1-47	AEO-1 Adult Entertainment Overlay District	26
13-1-48 through 13-1-59	RESERVED FOR FUTURE USE	29

Article D Conditional Uses

13-1-60	Statement of Purpose-Conditional Uses	30
13-1-61	Authority of Plan Commission and Town Board Requirements	30
13-1-62	Initiation of Conditional Use	31
13-1-63	Application for Conditional Use	31
13-1-64	Hearing on Application	32
13-1-65	Notice of Hearing on Application	32
13-1-66	Standards-Conditional Uses	33
13-1-67	Denial of Application for Conditional Use Permit	34
13-1-68	Conditions and Guarantees Applicable to All Conditional Uses	34
13-1-69	Plan Commission Recommendation; Town Board Action	35
13-1-70	Validity of Conditional Use Permit	36
13-1-71	Complaints Regarding Conditional Uses; Revocation of Permit	37
13-1-72	Home Occupations/Professional Home Offices	38

13-1-73	Mineral Extraction Conditional Uses	41
13-1-74	Appeals of Actions on Conditional Use Permit Requests	44
13-1-75	Large Livestock Facilities Conditional Use	44
13-1-76	Temporary Mobile Home Placement Conditional Use	49
13-1-77	Dog Kennel Conditional Use	50
13-1-78 through 13-1-79	RESERVED FOR FUTURE USE	51
Article E	Nonconforming Uses, Structures and Lots	
13-1-80	Intent-Nonconforming Uses, Structures and Lots	52
13-1-81	Article Definitions	53
13-1-82	Existing Nonconforming Structures	53
13-1-83	Existing Nonconforming Uses	54
13-1-84	Changes and Substitutions	55
13-1-85	Floodplain & Shoreland-Wetland Nonconforming Uses and Structures	55
13-1-86	Nonconforming Performance Standards	55
13-1-87 through 13-1-99	RESERVED FOR FUTURE USE	56
Article F	Traffic Visibility, Loading, Parking and Access	
13-1-100	Traffic Visibility Triangle	57
13-1-101	Parking Requirements	57
13-1-102 through 13-1-119	RESERVED FOR FUTURE USE	59
Article G	Wind Energy Systems; Mobile Tower Siting	
13-1-140	Wind Energy Systems	60
13-1-141	Mobile Tower Siting	60
13-1-142 through 13-1-159	RESERVED FOR FUTURE USE	67
Article H	Accessory Uses and Structures; Fences	
13-1-160	Accessory Uses or Structures	68
13-1-161 through 13-1-179	RESERVED FOR FUTURE USE	69
Article I	Modifications	
13-1-180	Height Modifications	70
13-1-181	Yards Modifications	70
13-1-182 through 13-1-199	RESERVED FOR FUTURE USE	70
Article J	Administration	
13-1-200	General Administrative System	71
13-1-201	Zoning Administrator	71
13-1-202	Violations and Penalties	71
13-1-203	Zoning Permits	72
13-1-204	Fees	73
13-1-205 through 13-1-219	RESERVED FOR FUTURE USE	73
Article K	Changes and Amendments to the Zoning Code	
13-1-220	Authority	74
13-1-221	Initiation of Changes and Amendments	74
13-1-222	Protest	75
13-1-223 through 13-1-239	RESERVED FOR FUTURE USE	75

Article L	Board of Appeals	
13-1-240	Authorization and Composition	76
13-1-241	Procedural Rules	76
13-1-242	Powers	76
13-1-243	Appeals	77
13-1-244	Variances	78
13-1-245	Review by Court of Record	80
13-1-246 through 13-1-259	RESERVED FOR FUTURE USE	80
Article M	Definitions	
13-1-260	Definitions	81

DRAFT

ARTICLE A INTRODUCTION

Section 13-1-1 Authority.

These regulations are adopted under the authority granted by Secs. 60.10(2)(h), 60.61, 60.62, 61.35, and 62.23(7), Wis. Stats.

Section 13-1-2 Short Title.

This Chapter shall be known as, referred to or cited as the "Zoning Code, Town of Cady, St. Croix County, Wisconsin."

Section 13-1-3 Purpose.

The purpose of this Chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the Town of Cady, St. Croix County.

Section 13-1-4 Intent.

The Town Board has been granted village powers [April 10, 2001] pursuant to Section 60.10(2)(c), Wis. Stats., and pursuant to the zoning authority confirmed by Section 60.10(2)(h), 60.61, 60.62, 61.35, and 62.23(7), Wis. Stats., it is the general intent of this Chapter to:

- (a) Regulate the use of principal and accessory structures, lands and waters;
- (b) Regulate lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
- (c) Secure safety from fire, flooding, panic and other dangers;
- (d) Provide adequate light, air, sanitation and drainage;
- (e) Prevent overcrowding; avoid undue population concentration;
- (f) Facilitate the adequate provision of public facilities and utilities;
- (g) Stabilize and protect property values;
- (h) Further the appropriate use of land and conservation of natural resources;
- (i) Preserve and promote the beauty of the Town of Cady;
- (j) Implement the Town Comprehensive Plan or plan components;
- (k) Provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

Section 13-1-5 Abrogation and Greater Restrictions.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

Section 13-1-6 Interpretation.

- (a) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, prosperity, aesthetics and general welfare of the Town of Cady and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- (b) Uses allowed in Commercial and Industrial Districts may be cross-referenced with the Standard Industrial Classification. The SIC number is shown in [].

Section 13-1-7 Effective Date.

This Chapter shall be originally effective after a public hearing, adoption by the Town Board and St. Croix County Board and publication or posting as provided by law.

Section 13-1-8 Severability and Non-Liability.

- (a) 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.
- (b) If any application of this Ordinance to a particular parcel or lot of land, building, structure, water, or air is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other land, building, structure, water, or air not specifically included in said judgment.
- (c) The Town does not guarantee, warrant, represent, or hold itself liable for any defects in plans or specifications, false information provided, plan omissions, examination or inspection oversight, construction, or any damage that may result in or after installation, and reserves the right to order changes or additions if conditions arise making this necessary.
- (d) No statement or actions by any official, employees, agent or committee of the Town should be construed or taken as a binding act except a resolution, motion, or ordinance that has been adopted the Town Board or Town Plan Commission at a lawfully conducted Town Board or Town Plan Commission meeting or by the Town electorate at a duly constituted Annual or Special Meeting within the limit of their powers. This includes, but it not limited to, interpretation of this Ordinance.
- (e) The Town expressly states that it has no responsibility whatsoever for assuring that land and/or building sites sold in the Town are in compliance with any ordinances, regulations, or rules. The Town also assumes no responsibility for the suitability of any property whose land division has been approved by the Town.

Section 13-1-9 through Section 13-1-19 RESERVED FOR FUTURE USE

ARTICLE B GENERAL PROVISIONS

Section 13-1-20 Jurisdiction and Compliance

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall include all lands and water within the Town of Cady, St. Croix County, Wisconsin.
- (b) **Compliance.**
 - (1) No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable Town, county and state regulations.
 - (2) Zoning changes shall be consistent with the Town of Cady Comprehensive Plan.

Section 13-1-21 General Use Restrictions

The following restrictions and regulations shall apply to all zoning districts:

- (a) **Regulation of Buildings and Uses.**
 - (1) **Nuisance Actions.** No provision of this Chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the appropriate laws of the State of Wisconsin.
 - (2) **Construction of Utilities.** No provision of this Chapter shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of above- ground 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) **Compliance with District Requirements.** 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) **One Residential Building Per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one residential building on one lot.
 - (5) **Pre-Existing Building Permits.** 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 original effective date of this Chapter and the construction of which shall have been started within twelve (12) months from the date of such permit.
 - (6) **Prohibited Dwelling Units (Accessory Buildings, Recreational Vehicles, Tents, etc.)**
 - a. No cellar, basement or unfinished home, garage, tent, recreational vehicle, camper, recreational trailer or accessory building shall, at any time, be used as a dwelling unit. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.

- b. A recreational vehicle, camper or tent on private property not zoned for campground purposes may be occupied as living quarters for no more than ten (10) consecutive days on parcels with no principal structure present. Such occupancy is permissible only with the written permission of the property owner.
 - c. A recreational vehicle, camper, or tent on private property not zoned for campground purposes may be occupied as living quarters for no more than twenty-one (21) days within a ninety (90) day period on parcels with a principal structure present. Such occupancy is permissible only with the written permission of the property owner. Such uses are allowed for over twenty-one (21) days within a ninety (90) day period on a parcel with a principal structure present with a conditional use permit in the AG-1, AG-2, and R-1 zoning districts. A sanitary plan will be required.
- (7) **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator. The Zoning Administrator may impose conditions on such temporary uses, to the extent allowed for under Article D.
- (8) **Setbacks - Decks, Porches, Handicapped Ramps, and Fire Chases.** For purposes of this Chapter, decks, porches and fireplace chases shall be considered a part of a building or structure for determining setback compliance. Handicapped ramps and open stairways shall not be considered a part of a building for determining setback compliance.
- (b) **Principal Uses.** Only those principal uses specified for a zoning district and their essential services shall be permitted in that district. If the permitted principal use is in place, the accessory structure use permitted in that Zoning District is also allowed.
- (c) **Unclassified or Unspecified Uses.** Unclassified or unspecified uses may be permitted by the Town Board, provided that such uses are similar in character to the principal uses permitted in the District.
- (d) **Conditional Uses.** Provisions applicable to conditional uses generally:
- (1) **Process.** Conditional uses and their accessory uses are considered as new special uses requiring, for their authorization, review, public hearing and approval by the Town Board, following Plan Commission recommendation, in accordance with Article D of this Chapter, excepting those existent at time of adoption of the Zoning Code which are classified as nonconforming uses.
 - (2) **Pre-Existing Conditional Uses.** Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Town Board to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
 - (3) **Change from Permitted to Conditional Use.** Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (4) **Termination.** Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Town Board in accordance with Article D.
 - (5) **Validity.** Conditional uses authorized by Town Board approval shall be

established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

- (6) **Substitution.** Conditional uses authorized by the Town Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Town Board approval and the procedures required in Article D.

Section 13-1-22 Site Regulations.

- (a) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography or extreme slope, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Town Board, in applying the provisions of the Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires.
- (b) **Street Frontage.** All lots shall abut upon a public street or other Town officially approved means of access, and each lot shall have a minimum lot width of one hundred seventy (170) feet at the building setback line; however, to be buildable, the lot shall comply with the frontage requirements of the Zoning District in which it is located.
- (c) **Private Sewage Systems.** Every building or structure intended for human habitation or occupancy shall be provided with a properly functioning sewage system for the treatment and disposal of domestic waste and shall comply with the St. Croix County Sanitary Code and SPS 383, Private Sewage Systems, Wis. Adm. Code.
- (d) **Corner Lot Setbacks.** Structures located on a corner lot shall conform to the front yard setback requirements for the zoning district in which located for both highway/road sides of the lot. There may be situations, however, where a greater setback may be required due to a corner lot being located on highways of two (2) different classes.

Section 13-1-23 Building Setback Lines From Highways.

- (a) **Purpose.** In order to promote and enhance the public safety, general welfare and convenience, it is necessary, if none are provided in the specific zoning district, to have highway setback lines, which are hereby established in the Town of Cady, St. Croix County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.
- (b) **Right-of-Ways of Highways.** Except as otherwise provided, the distances from the nearest highway right-of-way line to the setback line shall be as follows:
 - (1) **Class A Highways.** The setback distance from a Class A Highway shall be fifty (50) feet from the highway right-of-way line. The following highways in the Town are hereby designated as Class A Highways and setbacks are set by the State

of Wisconsin:

- a. All U.S. and state (numbered) highways.
 - (2) **Class B Highways.** The setback distance from a Class B highway shall be fifty (50) feet from the highway right-of-way line. The following highways in the Town are hereby designated as Class B highways and setbacks are set by St. Croix County:
 - a. All county trunks are hereby designated as Class B Highways. For the purpose of this Section, any road will be considered as a county trunk after it has been placed on the county trunk system by the County Board approved by the Highway Commission.
 - (3) **Class C Highways.**
 - a. All Town roads, minimum of sixty-six (66) feet wide, public streets and highways not otherwise classified are hereby designated Class C Highways.
 - b. The setback from Class C Highways shall be fifty (50) feet from the right-of-way line.
 - c. The highway setback for a cul-de-sac shall be fifty (50) feet from the right-of-way line of the highway.
 - d. In addition to the above requirements, all Town roads shall meet the requirements of Town highway ordinances.
- (c) **Vision Clearance.**
- (1) **Requirement.** There shall be a vision clearance triangle in each quadrant of all intersections of highways or streets with other highways or streets and of highways or streets with railroads. Such vision clearance triangle shall be bounded by the highway, street or railroad right-of-way lines and a vision clearance setback line connecting points on each right-of-way line which meet the requirements of Section 6-3-3.
 - (2) **Undetermined Right-of-Way.** In the case of railroads, and roads for which the right-of-way cannot be determined, the setback for purposes of this paragraph shall be considered to be one hundred (100) feet from the centerline of the road bed or road surface.
 - (3) **Structures Restricted.** Within a vision clearance triangle, no structures or object of natural growth shall be constructed, maintained or permitted to grow between a height of two and one-half (2 1/2) feet and ten (10) feet above the elevation of the street or highway grade at the centerline or of the top of the curb if there is a curb. This shall not apply to the trunks of trees, posts not over six (6) inches square or in diameter, retaining walls used to support ground at or below its natural levels, field crops in season or wire fences so designed and constructed as not to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance opening from one highway or street to another.
- (d) **Reduced Highway Setbacks.** A setback less than the setback required for the appropriate class of highway may be permitted where there are at least five (5) existing main buildings on the same side of the road within five hundred (500) feet of the proposed site that are built to less than the required setback. In such cases the setback shall be the average of the nearest main building on each side of the proposed site or if there is no building on one side, the average of the setback for the main building on one side and the setback required for the appropriate class of

highway. Any other setback must be permitted by the Plan Commission. If a reduced setback is proposed to a state or county highway, the pertinent authority (state or county) with jurisdiction must also give its approval for a reduction in highway setback.

- (e) **Structures Prohibited Within Setback Lines.** No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established in this Section and the highway, except as provided by this Section, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the original effective date of this Chapter shall be altered, enlarged or added if such structure is a public nuisance or poses a threat to the public health or safety.
- (f) **Structures Permitted Within Setback Lines.** The following kinds of structures may be placed between the setback line and the highway:
 - (1) Open agricultural fences as classified for use as line fences in Ch. 90, Wis. Stats.
 - (2) Telephone, telegraph and power transmission poles and lines and mobile telecommunications structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Section at his/her expense, when necessary for the improvement of the highway.
 - (3) Underground structures not capable of being used as foundations for future prohibited overground structures.
 - (4) Access or service highways constructed according to plans as approved by the Plan Commission. In giving such approval, the Plan Commission shall give due consideration to highway safety and maximum sight distances. If a county trunk highway is involved, any access will require approval by the County Highway Department. If a state or federal highway is involved, any access will require approval by the Wisconsin Department of Transportation.
 - (5) This Section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; installation of utilities, or construction and placement of septic systems or parking lots; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.

Section 13-1-24 Physical Requirements Applying to Single- and Two-Family Residential Dwellings

This Section shall apply to all single and two-family residential dwellings, including "manufactured home(s) defined as a single-family dwelling":

- (a) **Foundation.** Dwellings shall have a properly engineered, permanently attached means of support that meets the Wisconsin Uniform Dwelling Code requirements and all applicable building codes.
- (b) **Applicability of Wisconsin Uniform Dwelling Code to Site Built Additions to Manufactured Homes.** Site built additions to a manufactured home, such as a basement, crawl space, or room additions, must meet the requirements of the

Section 13-1-25 Shoreland and Floodplain Zoning.

The Town acknowledges that St. Croix County has established Shoreland and Floodplain Overlay Zoning Districts for the regulation of shorelands and floodplains. For regulated shorelands and floodplains, zoning permit approvals may be required from both the Town and County. Accordingly, the Zoning Administrator shall refer to St. Croix County all applicants seeking zoning permits for structures or uses that are proposed to be located or conducted within the Shoreland or Floodplain Overlay Districts. If the Zoning Administrator determines that any Town building permit is required for such project, the permit shall not be issued until the County permit has been issued.

Section 13-1-26 Drainage and On-Site Stormwater Management

The following standards shall apply to all development:

- (1) Sewage facilities for development may consist of any system meeting the requirements of the St. Croix County Sanitary Code and Wisconsin Department of Safety and Professional Services for private sewage systems and the Wisconsin Department of Natural Resources for public sewage systems; whichever are the most restrictive. Acceptable systems may include:
 - a. Private, individual on-site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
- (2) Drainage of on-site stormwater shall not be in excess of the stormwater which existed before the development.
- (3) Stormwater management shall be provided on-site, including, but not limited to, detention or retention ponds meeting state, county and Town standards, and approved by the Town Engineer.

Section 13-1-27 through Section 13-1-39 RESERVED FOR FUTURE USE

ARTICLE C ZONING DISTRICTS

Section 13-1-40 Zoning Districts Designated

For the purpose of this Chapter, the Town of Cady, St. Croix County, is hereby divided into the following six (6) districts:

- AG-1 Agricultural Preservation District.
- AG-2 Agricultural District.
- R-1 Rural Residential District.
- C-1 Commercial District.
- I-1 Industrial District.
- AEO Adult Entertainment Overlay District.

Section 13-1-41 District Boundaries

- (a) **Zoning Map.** The boundaries of the districts enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, Town of Cady, St. Croix County, Wisconsin," dated____, as amended periodically, which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Town Chairperson and the Town Clerk and shall be available to the public in the office of the Town Clerk.
- (b) **Boundary Lines.** The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property line; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map.
- (c) **Vacation.** Vacation of public streets and alleys pursuant to Section 840.11, Wis. Stats., shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (d) **Amendments.** Amendments to the zoning map shall take effect upon adoption by the Town Board, after proof of posting or publication thereof is duly filed in the office of the Town Clerk and after approval by the St. Croix County Board of Supervisors. All amendments shall be duly entered and attested on the certified copy of the Zoning Map. Changes to the zoning map shall be consistent with the Town of Cady Comprehensive Plan.

Section 13-1-42 AG-1 Agricultural Preservation District

- (a) **Primary Purpose and Characteristics.** The AG-1 Agricultural Preservation District is intended to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. The AG-1 District meets the requirements for certification as a Farmland Preservation Zoning District pursuant to Section 91.38, Wis. Stats.
- (b) **Permitted Uses.** The following are permitted uses in the AG-1 District:
 - (1) Agricultural Uses.
 - (2) Accessory Uses.
 - (3) Agricultural-related Uses.

- (4) Undeveloped natural resource and open space areas.
 - (5) A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.
 - (6) Farm residence as defined in Wis. Stat. §91.01 (19).
 - (7) Other permitted uses identified by Wisconsin DATCP rule.
- (c) **Conditional Uses.** The following are specific conditional uses in this Section;
- (1) Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply.
 - a. The use and its location in the agricultural preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the agricultural preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
 - (2) A recreational vehicle, camper, or tent on private property not zoned for campground purposes may be occupied as living quarters for more than twenty-one (21) days within a ninety (90) day period on parcels with a principal structure present.
 - (3) Animal hospital not primarily providing services to livestock is allowed under State Statute 91.01(1)(d)
 - (4) Animal shelter under State Statute 91.01(1)(d) if it is a private on-farm use or as a governmental or non-profit community use under State Statute 91.46(5).
 - (5) Veterinarian services primarily to livestock, including the sale of supplies and pharmaceuticals related to animal husbandry under ATCP 49.01(2).
 - (6) Horse boarding under State Statute 91.01(1)(b) or (d).
 - (7) Dog kennel under State Statute 91.01(1)(d).
 - (8) Livestock facilities that do not exceed one animal unit per acre of land suitable for animal waste utilization or less than 500 animal units, subject to compliance with the following minimum requirements:
 - a. Wis. Adm. Code Ch. NR 243, Animal Feeding Operations.
 - b. Wis. Adm. Code Ch. NR 151, Runoff Management.
 - c. Ch. 11, St. Croix County Code of Ordinances, Animal Waste Storage Facilities.
 - d. Natural Resources Conservation Service Conservation Practice Standard Code 590, Nutrient Management.
 - (9) Livestock facilities that exceed one animal unit per acre of land suitable for animal waste utilization or less than 500 animal units, subject to compliance with the following minimum requirements:
 - a. Wis. Adm. Code Ch. NR 243, Animal Feeding Operation.
 - b. Wis. Adm. Code Ch. NR 151, Runoff Management.

- c. Ch. 11, St. Croix County Code of Ordinances, Animal Waste Storage Facilities.
 - d. Natural Resources Conservation Service Conservation Practice Standard Code 590, Nutrient Management.
 - e. Wis. Adm. Code Ch. ATCP 51, Livestock Facility Siting.
- (10) Governmental, institutional, religious, or nonprofit community uses, if all of the following apply.
- a. The use and its location in the agricultural preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the agricultural preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- (d) **Rezoning Land Out of an AG-1 District**
- (1) Except as provided in sub. (2), the Town of Cady may not rezone land out of the agricultural preservation zoning district unless the Town finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the agricultural preservation zoning district.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the St. Croix County farmland preservation plan, 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 agricultural preservation zoning ordinance map more consistent with the 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 Cady shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the Town has rezoned out of the farmland preservation zoning district under sub. (1) during the previous year and a map that clearly shows the location of those acres. The Town must also report this information to St. Croix County.
- (e) **AG-1 Site Regulations (Principal Structure).**
- (1) **Lot Width.** Minimum one hundred fifty (150) feet.
 - (2) **Lot Area and Density.** One single-family farm residence based on a density of one lot per 40 acres with a minimum lot size of two acres. After reaching maximum density allowed, the remaining farm acreage may only be used for

the permitted and conditional uses set forth in Section B and C above, except that no additional residential uses are allowed.

- (3) **Agriculture Structure Height.** No maximum.
- (4) **Residential Structure Height.** Maximum thirty-five (35) feet.
- (5) **Setbacks for Primary Structures.**
 - a. Street: Per Section 13-1-23.
 - b. Side: Twenty-five (25) feet.
 - c. Back: Twenty-five (25) feet.
- (6) **Site Regulations Accessory Buildings Not Housing Livestock.**
 - a. Side setback: Twenty-five (25) feet minimum.
 - b. Rear setback: Twenty-five (25) feet minimum.
- (7) **Site Regulations Accessory Buildings Housing Livestock.** Two hundred (200) feet from any property line or public road right-of-way if the facility has less than one thousand (1,000) animal units. Three hundred (300) feet from any property line or one hundred and fifty (150) feet from a public road right-of-way if the facility has one thousand (1,000) animal units or more.

Section 13-1-43 AG-2 Agricultural District.

- (a) **Purpose.** The AG-2 Agricultural District is an agriculture district intended to:
 - (1) Provide for a wide range of agriculture, agricultural accessory, and agriculture-related uses, at various scales with the minimum lot area necessary to accommodate the use. The AG-2 District accommodates uses which:
 - a. Are commercial in nature associated with agricultural production;
 - b. Require a rural location due to extensive land area needs or proximity of agricultural resources; and
 - c. Do not require urban services.
 - (2) In appearance and operation, permitted uses in the AG-2 Agricultural District are often an active farm or are indistinguishable from an active farm. Conditional uses are more clearly agriculture-commercial in nature, and may involve agriculture-related facilities or processes that require a remote location distant from incompatible uses, proximity to agricultural products or suppliers, and/or access to utility services or major transportation infrastructure.
 - a. The activities in Subsection (a)(2) are characterized by:
 - 1. Wholesale or retail sales, and outdoor storage/display of agriculture-related equipment, inputs, and products.
 - 2. Parking areas, outdoor lighting, and signage appropriate to the scale of use.
 - 3. Small, medium, or large utilitarian structures/facilities/workshops, appropriate for scale of use.
 - 4. Low to moderate traffic volumes.
 - 5. Noises, odors, dust, or other potential nuisances associated with agriculture-related production or processing.
- (b) **Permitted Uses.** The following are permitted uses in the AG-2 Agricultural District:
 - (1) Permitted uses in the A-1 District.
 - (2) Sales, distribution, mixing, blending, and storage of feeds, seeds and fertilizer.

- (3) Livestock and farm commodity trucking services.
 - (4) Processing and preserving of natural agricultural products, fruits, and vegetables.
 - (5) Sales and distribution of nursery stock and plants.
 - (6) Residential use for an owner of the business.
 - (7) One single-family dwelling based on a density of two (2) lots per 40 acres.
 - (8) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-141.
- (c) **Conditional Uses.** The following are conditional uses in the AG-2 Agricultural District:
- (1) Conditional use in AG-1.
 - (2) Sales, service, and repair of machinery and equipment used in farming.
 - (3) Sales, service, and repair of lawn and garden equipment.
 - (4) Sales and service of small scale methane generating equipment and alcohol distilling equipment that is designed for use in farm operations.
 - (5) Sales and service of wind driven electrical generating equipment.
 - (6) Plant genetic laboratories.
 - (7) Agriculture-related experimental laboratories.
 - (8) Dead stock hauling services.
 - (9) Sales and storage of agricultural byproducts.
 - (10) Livestock auction facilities.
 - (11) Manure processing facilities.
 - (12) Animal hospital, animal shelter, veterinarian services, and horse boarding.
 - (13) Dog kennel.
 - (14) A recreational vehicle, camper, or tent on private property not zoned for campground purposes may be occupied as living quarters for more than twenty-one (21) days present within a ninety (90) day period on parcels with a principal structure. A sanitary plan will be required.
 - (15) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure that requires substantial modification, per Section 13-1-141.
- (d) **Site Regulations (Principal Structure)**
- (1) Lot Width. Minimum one hundred fifty (150) feet.
 - (2) Lot Area and Density. One single-family dwelling based on a density of two lots per 40 acres with a minimum lot size of two acres. After reaching maximum density allowed, the remaining farm acreage may only be used for the permitted and conditional uses set forth in Section B and C above, except that no additional residential uses are allowed.
 - (3) Agricultural Structure Height. No maximum
 - (4) Residential Structure Height. Maximum thirty-five (35) feet.
 - (5) Setbacks for Primary Structures:
 - Street: Per Section 13-1-23
 - Side: Twenty-five (25) feet
 - Back: Twenty-five (25) feet
- (e) **Site Regulations Accessory Buildings Not Housing Livestock.**
- (1) Side setback: Twenty-five (25) feet minimum.
 - (2) Rear setback: Twenty-five (25) feet minimum.

- (f) **Site Regulations Accessory Buildings Housing Livestock.** Two hundred (200) feet from any property line or public road right-of-way if the facility has less than one thousand (1,000) animal units. Three hundred (300) feet from any property line or one hundred and fifty (150) feet from a public road right-of-way if the facility has one thousand (1,000) animal units or more.
- (g) **Pre-Existing Mobile Homes.** If a new principal residential structure is constructed on a parcel replacing a pre-existing mobile home on the parcel, the mobile home shall be removed or a new, separate parcel must be created for placement of the mobile home per Sections 13-1-42(f) and 13-1-76.

Section 13-1-44 R-1 Rural Residential District.

- (a) **Purpose and Characteristics**
 - (1) The R-1 Residential District is primarily intended to provide for areas within which most agricultural uses and all residential uses are allowed.
 - (2) Proposed lots shall be served by on-site soil absorption sanitary sewage disposal systems (septic systems and drainage fields) and private wells meeting the applicable requirements of the Wisconsin Administrative Code and St. Croix County Sanitary Code.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
 - (1) Single-family detached dwellings with a minimum total building area of nine hundred (900) square feet; for purposes of this Chapter manufactured and mobile homes are included in the definition of single-family dwelling.
 - (2) Agricultural Uses; except livestock facilities that exceed one animal unit per acre of land suitable for animal waste utilization or livestock facilities of 500 animal units or more. Livestock facilities shall meet the following minimum standards:
 - a. Wisconsin Administrative Code Chapter NR 243, Animal Feeding Operations
 - b. Wisconsin Administrative Code Chapter NR 151, Runoff Management
 - c. St. Croix County Code of Ordinances Chapter 11, Animal Waste Storage Facilities.
 - d. Natural Resources Conservation Service (NRCS) Conservation Practice Standard Code 590, Nutrient Management
 - (3) Manufactured and mobile homes complying with all of the following requirements and limitations:
 - a. The home shall be installed on a frost wall or full basement foundation system, or in the case of mobile homes, placement on piers or a slab is also permissible. The foundation, slab or piers shall be approved by the Building Inspector; the Building Inspector may require a plan to be certified by a Wisconsin registered architect or engineer to ensure proper support for the home.
 - (4) Community living arrangements and day care centers that have a capacity for eight (8) or fewer persons. [Statutory Reference: Section 50.03, Wis. Stats., Section 59.69(15), Wis. Stats.,; DHS 83, Wis. Adm. Code]
 - (5) Foster family care.
 - (6) Schools, churches, and public buildings

- (7) Undeveloped natural resource and open space areas.
 - (8) Home occupations and professional home offices per Section 13-1-72.
 - (9) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-141.
- (c) **Conditional Uses.** The following residential and quasi-residential uses shall be conditional uses pursuant to Article E and may be permitted as specified:
- (1) Conversion of a single-family dwelling to a two-family dwelling provided that:
 - a. The two-family dwelling shall have a minimum total floor space area of one thousand eight hundred (1,800) square feet.
 - (2) Two-family dwelling (duplex), provided that:
 - a. The proposed two-family dwelling is architecturally compatible with the character of a single-family residential development typically permitted in the District.
 - b. The proposed two-family dwelling shall have a minimum total building area of one thousand three hundred fifty (1,350) square feet [Note: 1.5 times that required for single-family dwelling square footage].
 - (3) Multi-family residential structure, provided that:
 - a. The proposed multi-family structure shall provide a minimum lot area of two (2) acres.
 - b. The proposed multi-family dwellings shall have a minimum total building area of one thousand eight hundred (1,800) square feet, plus an additional six hundred (600) square feet for each dwelling unit over two (2).
 - c. The multi-family structure has no more than eight (8) units per building.
 - (4) Clubs, lodges, and meeting places of a noncommercial nature, provided all principal structures and uses are:
 - a. Not less than one hundred (100) feet from any lot line.
 - b. Of a compatible use within the rural setting.
 - (5) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
 - (6) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (7) Bed and breakfast inns.
 - (8) Public buildings housing uses incompatible with the characteristics of the district, such as public sewage systems, incinerators and public works shops.
 - (9) Public utility structures, except those incompatible with the characteristics of the district.
 - (10) Nursery school.
 - (11) Dog kennel.
 - (12) Animal hospital, animal shelter, veterinarian services, and horse boarding.
 - (13) A recreational vehicle, camper, or tent on private property not zoned for campground purposes may be occupied as living quarters for more than twenty-one (21) days within a ninety (90) day period on parcels with a principal structure present.
 - (14) Zero Lot Line Duplexes.
 - a. A zero lot line duplex may be built on the dividing line between two halves of an existing legal lot of record having at least the square feet in area per the requirements of Subsection (d) above, and at least one hundred fifty (150) feet wide at the building setback line.

- b. The common wall of the zero lot line duplex shall be centered on the dividing line between the two (2) halves of the lot;
 - c. The setback, measured from the principal structure and not including overhangs, from the opposite lot line shall be not less than ten (10) feet;
 - d. When attached dwelling units are created, the plans, specifications, and construction of such building shall require that the installation and the construction of sewer, water and other utility services be done in such a manner so as to provide separate systems to each dwelling unit; provided however, that common services are permitted if:
 - Current Wisconsin State Plumbing Code permits the installation of common systems and
 - Cross easement and maintenance provisions for the common systems are provided for and included in the Deed Restrictions referred to in Subsection (e)(5) below.
 - e. When attached dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, and maintenance shall be guarded against by private covenants, deed restrictions and the approving authority. Deed restrictions shall provide:
 - Each side of the building shall be constructed at the same time and in such a way as to be harmonious with the other side so that the overall effect is aesthetically pleasing.
 - The dwelling shall be painted, stained or sided one (1) color scheme and any subsequent repainting, staining or siding shall be of one (1) color scheme, or according to the plan established by these covenants.
 - Violation of these covenants should be handled by the signing parties; however, they shall provide that the Town may enforce the same or facilitate the proper solution.
 - Copies of the deed restrictions and private covenants shall be placed on file in the assessor's office and recorded in the office of the County Register of Deeds.
 - Changes to covenants or deed restrictions shall require an amendment to the conditional use permit required by the zoning ordinance.
 - Basements shall be provided across zero lot lines where necessary for water, sewer and utility services.
 - There shall be a common wall which shall be a minimum one (1) hour fire wall running from the lowest floor level, including the basement, to the underside of the roof sheathing. Such basement wall, if any, shall be masonry.
 - No fences shall be permitted along the zero lot line in the front or rear yards.
- (15) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure requiring substantial modifications, per Section 13-1-141.
- (d) **R-1 Site Regulations.**
- (1) **Lot Width Through Depth of Lot.** Minimum one hundred fifty (150) feet at the building setback line.
 - (2) **Lot Area.** Minimum two (2) acres and meet the lot area requirements of Subsection (c)(3) above.

- (3) **Building Height.** Maximum thirty-five (35) feet.
- (4) **Setbacks for Primary Structures.**
 - a. Street: Per Section 13-1-23.
 - b. Side: Twenty-five (25) feet.
 - c. Back: Twenty-five (25) feet.
- (e) **Pre-Existing Mobile Homes.** If a new principal structure is constructed on a parcel replacing a pre-existing mobile home on the parcel, the mobile home shall be removed within six (6) months of the new principal structure being occupied or a new, separate parcel must be created for placement of the mobile home per Section 13-1-76.
- (f) **Accessory Uses and Detached Accessory Structures.** Accessory uses and detached accessory structures shall not exceed thirty-five (35) feet in height, shall not be closer than twenty-five (25) feet to any side yard; and shall not be closer than twenty-five (25) feet to a rear lot line. Accessory structures shall not be larger than ten percent (10%) of the lot size. [Example: If the total property is five (5) acres, the accessory structure cannot be larger than 21,780 square feet.

Section 13-1-45 C-1 Commercial District

- (a) **Purpose and Characteristics.** The C-1 Commercial District is intended to provide for orderly and attractive business development in appropriate locations described in the Town Comprehensive Plan and that can provide the necessary infrastructure and services. The C-1 District is also intended to provide for business and customer service establishments that serve the convenience and general retail needs of the Town, as well as establishments that are logically related to and dependent upon highway traffic or designed to serve the needs of such traffic. Such business development should provide ample off-street parking (as described in Article F) and loading areas, safe vehicular access to the road system, landscape planting screens in areas adjacent to non-business development and, when appropriate, a development character and intensity of use which is compatible with the rural character of the Town of Cady.
- (b) **Permitted Uses.** The following are permitted uses within the C-1 District:
 - (1) Nursing homes.
 - (2) Nursery and day care centers.
 - (3) Retirement homes.
 - (4) Public parking lots.
 - (5) Restaurants.
 - (6) Barber, hair salon, and beauty shops.
 - (7) Retail sales and services less than 2,500 square feet.
 - (8) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playground and museums.
 - (9) Schools and churches.
 - (10) Undeveloped natural resource and open space areas.
 - (11) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-141.
- (c) **Conditional Uses.** All conditional uses must be approved in accordance with the procedures established in Article D. The following are specific conditional uses in

this District:

- (1) Amusement activities (indoor and outdoor).
- (2) Bars and taverns.
- (3) Gas stations.
- (4) Hotels and motels.
- (5) Night clubs and dance halls.
- (6) Sales, service, and installation of tires, batteries and accessories.
- (7) Residential dwelling units.
- (8) Animal hospital, shelters, kennels, and veterinarian services.
- (9) Boat sales and service.
- (10) Public assembly uses.
- (11) Commercial recreation facilities.
- (12) Off-season storage facilities.
- (13) Lodges and fraternal buildings.
- (14) Drive-in food and beverage establishments.
- (15) Drive-through banks.
- (16) Drive-in theaters.
- (17) Vehicle sales and service.
- (18) Dog kennels and horse boarding.
- (19) Construction contracting.
- (20) Governmental and cultural uses
- (21) Utilities.
- (22) Public passenger transportation terminals.
- (23) Mobile home sales.
- (24) Farm implement sales.
- (25) Mini-warehouses.
- (26) Retail sales and services over 2,500 square feet.
- (27) Other uses similar to or customarily incidental to any of the above uses.
- (28) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure requiring substantial modification, per Section 13-1-141.

(d) **C-1 Site Regulations.**

- (1) **Lot Width.** Minimum one hundred fifty (150) feet.
- (2) **Lot Area.** Minimum two (2) acres.
- (3) **Building Area.** Minimum none.
- (4) **Building Height.** Maximum thirty-five (35) feet.
- (5) **Setbacks.**
 - a. Street: Per Section 13-1-23.
 - b. Side: Thirty (30) feet.
 - c. Back: Thirty (30) feet.

- (e) **Plans and Specifications to Be Submitted to Plan Commission.** The builder of any building hereafter erected or structurally altered in the C-1 District shall, before a building permit is issued, present detailed plans and specification of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair, property values within the Town. The Plan Commission's review of the plans and specifications shall be concerned with

such items as general site layout and building design, vehicular ingress and egress, off-street parking, loading and unloading and landscape planting plans.

- (f) **Drainage and On-Site Stormwater Management.** The following standards shall apply to all development:
- (1) Sewage facilities for development may consist of any system meeting the requirements of the St. Croix County Sanitary Code and the Wisconsin Department of Safety and Professional Services for private sewerage systems and the Wisconsin Department of Natural Resources for public sewerage systems, whichever are the most restrictive. Acceptable systems may include:
 - a. Private, individual on-site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
 - (2) Drainage of on-site stormwater shall not be in excess of the stormwater which existed before the development.
 - (3) Stormwater management shall be provided on-site, including, but not limited to, detention or retention ponds meeting State, County and Town, and approved by the Town Engineer.

Section 13-1-46 I-1 Industrial District

- (a) **Purpose and Characteristics.** The I-1 Industrial District is intended to provide for orderly development of manufacturing, fabrication, or other similar industrial operations in appropriate locations described in the Town Comprehensive Plan and that can be provided the necessary infrastructure and services. Based on physical and operational characteristics, they would not be detrimental to the surrounding area or to the Town as a whole, by reason of smoke, noise, dust, odor, traffic, physical appearance or other similar factors. Accordingly, the I-1 Industrial District establishes such regulatory controls as will reasonably ensure the compatibility of industrial development with surrounding areas. All uses in this District must meet all applicable State of Wisconsin industrial standards.
- (b) **Permitted Uses.** The following are permitted uses in the I-1 District:
- (1) Permitted Uses in C-1.
 - (2) Conditional Uses in A-1 and A-2.
 - (3) Automotive body repairs.
 - (4) Commercial bakeries.
 - (5) Commercial greenhouses.
 - (6) Distributors.
 - (7) Farm machinery sales.
 - (8) Truck repair facilities and truck or trailer parking.
 - (9) Laboratories.
 - (10) Machine shops.
 - (11) Manufacturing and bottling of beverages.
 - (12) Painting facilities.
 - (13) Printing and/or publishing.
 - (14) Storage and sale of machinery and equipment.
 - (15) Trade and contractors' offices.
 - (16) Warehousing (enclosed within a structure) for manufacturing, fabrication, packaging, and assembly of products from furs, glass, leather, metals, paper,

- plaster, plastics, textiles, and wood.
- (17) Warehousing (enclosed within a structure) for manufacturing, fabrication, processing, packaging, and packing of confections, cosmetics, electrical appliances, electronic devices, food, instruments, jewelry, pharmaceuticals, tobacco, and toiletries, essential services, or similar uses.
- (18) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-141.
- (c) **Conditional Uses.** All conditional uses must be approved in accordance with the procedures established in Article D. The following are specific conditional uses in this District:
- (1) Conditional Uses in the C-1 District.
 - (2) Airports, aircraft landing fields, and hangers.
 - (3) Disposal and recycle areas.
 - (4) Farms operated for the disposal of sewage, rubbish, or offal.
 - (5) Oil and coal refineries.
 - (6) Sewage treatment facilities.
 - (7) Interstate trucking terminals, excluding those involved with the transportation of ferrous, non-ferrous and nonmetallic materials.
 - (10) Governmental and cultural uses.
 - (11) Stockyards.
 - (12) Bio-diesel and ethanol manufacturing bio-power facilities.
 - (13) Non-metallic construction-grade mineral extraction, transloading, processing, or quarrying meeting Town ordinance and other regulatory requirements.
 - (14) Slaughterhouses and other processing of animal-based products.
 - (15) Siting and construction of any new mobile support structure and/or facility or a Class I collocation of a new mobile service facility on an existing support structure, per Section 13-1-141.
 - (16) Adult Entertainment Overlay District.
 - (17) Other uses similar to or customarily incidental to any of the above uses.
- (d) **I-1 Site Regulations.**
- (1) **Lot Width.** Minimum two hundred (200) feet.
 - (2) **Lot Area.** Minimum three (3) acres.
 - (3) **Building Area.** Minimum none.
 - (4) **Building Height.** Maximum fifty (50) feet.
 - (5) **Setbacks.**
 - a. Street: Per Section 13-1-23.
 - b. Side: Twenty-five (25) feet.
 - c. Back: Fifty (50) feet.
- (e) **Plans and Specifications to Be Submitted to Plan Commission.** The builder of any building hereafter erected or structurally altered in the I-1 Industrial District shall, before a building permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair property values within the Town. The Plan Commission review of the plans and specifications shall be concerned with such items as general site layout and building design, vehicular ingress and egress, off-street parking,

loading and unloading and landscape planting plans.

- (f) **Drainage and On-Site Stormwater Management.** The following standards shall apply to all development:
- (1) Sewerage facilities for development may consist of any system meeting the requirements of the St. Croix County Sanitary Code and the Wisconsin Department of Safety and Professional Services for private sewerage systems and the Wisconsin Department of Natural Resources for public sewerage systems, whichever are the most restrictive. Acceptable systems may include:
 - a. Private, individual on site systems serving a single lot.
 - b. Public, community systems consisting of dispersed community systems shared by two (2) or more dwellings or centralized systems serving the entire development.
 - (2) Drainage of on-site stormwater shall not be in excess of the stormwater which existed before the development.
 - (3) Stormwater management shall be provided on site, including, but not limited to, detention or retention ponds meeting state, county and Town standards, and approved by the Town Engineer.

Section 13-1-47 AEO Adult Entertainment Overlay District.

- (a) Authority.
- (1) The Town Board has authority, to be liberally construed in favor of the Town, under its general police powers set forth in Ch. 60, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
 - (2) The Town Board recognizes it lacks authority to regulate obscenity under Section 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
 - (3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
 - (4) The Town Board recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
 - (5) However, the Town Board is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Town of Cady; and

- (6) Among these secondary effects are:
 - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;
 - c. Health risks associated with the spread of sexually transmitted diseases; and
 - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
 - (7) The Town Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Town of Cady; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
 - (8) The Town Board has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the Town while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.
- (b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Town so as not to suppress their existence. Adult entertainment uses shall always be considered only as a conditional use in the I-1 Industrial District.
- (c) **Definitions.** For purposes of this District, the following definitions shall be applicable:
- (1) **Adult Establishment.** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and other means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
 - (2) **Adult Bookstore.** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (3) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
 - (4) **Adult Motion Picture Theater.** Any establishment for the presentation of

motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.

- (5) **Adult Novelty Store.** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
 - (6) **Specified Anatomical Areas.** Means either:
 - a. Less than completely and opaquely covered human genitals pubic region.
 - b. Human male genitals in a discernible turgid state, even if opaquely covered.
 - c. Less than completely and opaquely covered nipples or areolas of the human female breast.
 - (7) **Specified Sexual Activities.** Means simulated or actual:
 - a. Showing of human genitals in a state of sexual stimulation or arousal; or
 - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
 - (8) **Substantial.** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Town upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.
- (d) **Location.**
- (1) No adult establishment shall be located:
 - a. Within any zoning district other than I-1 Industrial District.
 - b. Within two hundred fifty (250) feet (plus) feet of an existing adult establishment.
 - c. Within two hundred fifty (250) feet of any dwelling as defined by this Zoning Code.
 - d. Within two hundred fifty (250) feet of any pre-existing school, church or daycare, as defined in this Zoning Code.
 - e. Within two hundred fifty (250) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
 - (2) For purposes of this District, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.

(e) **Hours of Operation.**

- (1) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.
- (2) All adult establishments shall be open to inspection at all reasonable times by the law enforcement authorities, Zoning Administrator and/or other Town representatives.

Section 13-1-48 through Section 13-1-59 RESERVED FOR FUTURE USE.

DRAFT

ARTICLE D CONDITIONAL USES

Section 13-1-60 Statement of Purpose-Conditional Uses.

The purpose of a Conditional Use is to provide a reasonable degree of discretion in determining the suitability of certain uses of a special nature. The development and execution of this Article is based upon the division of the Town of Cady into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses. Approval or denial of a conditional use application shall be supported by substantial evidence. Substantial evidence shall be defined as facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

Section 13-1-61 Authority of the Plan Commission and Town Board.

- (a) The Town Board may authorize the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Plan Commission and Town Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Town Board action, and the resulting conditional use permit, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Plan Commission and Town Board shall make findings based upon substantial evidence presented that the standards herein prescribed are being complied with. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the Town ordinance or imposed by the Town Board, the Town shall grant the conditional use permit.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission and/or Town Board shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action. (See Section 13-1-23.)
- (c) Conditions such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved

traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission and Town Board upon their finding that these are necessary to fulfill the purpose and intent of this Chapter. Conditions must be related to the purpose of the ordinance and be based on substantial evidence and must be reasonable and to the extent practicable, measureable, and may also include conditions such as the permit's duration, transfer, or renewal. The Town shall also consider recommendations from federal, state and county agencies.

Section 13-1-62 Initiation of Conditional Use.

Any person, firm, corporation or organization having a freehold interest 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 in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located. An exception to the standard conditional use procedures of this Article is that conditional use permits for large livestock facilities in the AG-2 District shall be processed and reviewed only pursuant to Section 13-1-75.

Section 13-1-63 Application for Conditional Use.

- (a) **Application Filing Requirements.** An application for a conditional use shall be filed on a form prescribed by the Town of Cady. Such applications shall be filed a minimum of thirty (30) days prior to the next Plan Commission meeting and then be forwarded to the Plan Commission upon receipt by the Zoning Administrator. The applicant must present substantial evidence that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied.
- (b) **Required Plans/Information.** The plans/information required for review of all conditional use permit applications shall generally consist of any or all of the following, as determined by the Zoning Administrator:
 - (1) **Site Development Plan.** A site development plan, which shall include and address:
 - a. Location of all buildings on lots, including both existing and proposed structures.
 - b. Location and number of existing and proposed parking spaces.
 - c. Vehicular circulation.
 - d. A statement on how the proposed conditional use will be consistent with the Town Comprehensive Plan.
 - (2) **Dimension Plan.** A dimension plan, which shall include and address:
 - a. Lot dimensions and area.
 - b. Dimensions of proposed and existing structures.
 - c. Setbacks of all buildings located on property in question.
 - d. Architectural elevations.
 - (3) **Grading Plan.** A grading plan, which shall include and address:

- a. Existing contour.
- b. Proposed changes in contour.
- c. Drainage configuration.
- (4) **Landscape Plan.** A landscape plan, which shall include and address:
 - a. Location of all existing major trees, and which trees are proposed to be removed.
- (c) **Additional Information.** In order to secure information upon which to base its determination, the Zoning Administrator may require the applicant to furnish, in addition to the information required for a building permit, the following information:
 - (1) **Contours; Soil Types.** A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover.
 - (2) **Location of Buildings; Parking Areas.** Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping and lighting.
 - (3) **Building and Utilities Plans.** Plans for buildings, sewage disposal facilities, septic components, private wells, water supply systems, and arrangements of operations.
 - (4) **Filling/Grading Plan.** Specifications for areas of proposed filling, grading, lagooning or dredging.
 - (5) **Stormwater Management and Floodplain Plans.** Plans for storm water and drainage management, and for compliance with floodplain and/or shoreland-wetland regulations.
 - (6) **Other Information.** Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

Section 13-1-64 Public Hearing on Application.

Upon receipt of the application and the information required by Section 13-1-63, the request for a conditional use permit shall be placed on the agenda of a Plan Commission meeting occurring within forty-five (45) days from the date of submission of a complete application. The request shall be considered as being officially submitted when all the information requirements, including the payment of all applicable fees, are complied with. Pursuant to Section 13-1-65 below, a hearing shall be conducted and a record of the proceedings shall be kept in such a manner and according to such procedures as the Plan Commission shall prescribe. The Town Board and/or Plan Commission can, on their own motion, reclassify applications for rezonings which come before their bodies, given the facts of the application, as a conditional use permit application; in those situations, the reclassified application would have to comply with the procedures and standards of this Article. In addition to a public hearing before the Plan Commission, the Town Board may, at its option, also hold a public hearing pursuant to Section 13-1-69(b).

Cross-Reference: Section 13-1-65 and 13-1-69.

Section 13-1-65 Notice of Public Hearing on Application.

- (a) Notice of the time, place and purpose of such hearing shall be given by publication of a Class II Notice as prescribed by the Wisconsin Statutes at least ten (10)

days prior to the public hearing in the official Town newspaper or legally posted in three (3) places. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Town Board and Plan Commission, and the owners of record as listed in the office of the Town Assessor who are owners of property in whole or in part situated within three hundred (300) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.

- (b) Failure to fully comply with the notice to adjacent property owners shall not, however, invalidate any previous or subsequent action on the application.

Cross-Reference: Sections 13-1-64 and 13-1-69.

Section 13-1-66 Standards-Conditional Uses.

- (a) **Standards.** Except for livestock facilities conditional uses under Section 13-1-75 which are subject to separate criteria, no application for a conditional use shall be recommended for approval by the Plan Commission, or approved by the Town Board, unless the following conditions are present:
 - (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall conform to all applicable regulations of the district in which it is located.
 - (7) That the proposed use does not violate flood plain regulations governing the site.
 - (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Town Board and Plan Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district and the Town Comprehensive Plan.
- (c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit application, the Plan Commission shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Section 13-1-67 Denial of Application for Conditional Use Permit.

When an advisory recommendation of denial of a conditional use application is made by the Plan Commission or an actual denial by the Town Board, the Plan Commission and/or Town Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Plan Commission and/or Town Board has used in determining that each standard was not met. Such findings may be in the form of meeting minutes.

Section 13-1-68 Conditions and Guarantees Applicable for All Conditional Uses

Except for livestock facilities conditional uses under Section 13-1-75 which are subject to separate criteria, the following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission may recommend and the Town Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Plan Commission may recommend and the Town Board shall require such evidence and guarantees as deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

Conditions placed on the permit must be reasonable and measureable to the extent possible. The Town finds that conditions may vary significantly by type of land use and site. Therefore it is not possible to include an exhaustive list of all such measureable condition within the text of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping (commercial or manufacturing districts only)
- (2) Type of construction;
- (3) Construction commencement and completion dates;
- (4) Sureties;
- (5) Lighting;
- (6) Fencing;

- (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Planting screens;
 - (15) Increased parking; or
 - (16) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In reviewing each application and making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Plan Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
 - (c) **Signage; Evidence of Use.** Signage shall be governed by Article G.
 - (d) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Town Board.
 - (e) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Town Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
 - (f) **Sloped Sites; Unsuitable Soils.** Where slopes exceed twenty percent (20%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
 - (g) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Zoning Code such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or significant potential of accidents.

Section 13-1-69 Plan Commission Recommendation; Town Board Action

- (a) **Plan Commission Advisory Recommendation.**
 - (1) The Town Plan Commission shall act as an advisory role for the Town Board. The Town Board shall serve as the administrator of this section and give final approval or denial of conditional uses.
 - (2) Following referral of conditional use permit applications and public hearing pursuant to Section 13-1-64, the Plan Commission may recommend that the

Town Board authorize the Zoning Administrator to issue a conditional use permit for conditional uses specified in this Chapter after review and a public hearing, provided such uses are in accordance with the purpose and intent of this Chapter, and, more specifically, the standards for conditional uses established in this Article.

- (3) The Plan Commission shall make findings of fact and recommend such actions or conditions relating to the request as the Commission deems necessary to carry out the intent and purpose of this Chapter.
- (b) **Town Board Action.**
- (1) Upon receiving the recommendation of the Plan Commission, the Town Board shall place such recommendation(s) on the agenda for a subsequent Board regular meeting. Such recommendations, including findings of standards not met as required by Section 13-1-67, shall be entered in and made part of the permanent written record of the Town Board.
 - (2) If, following the recommendations of the Plan Commission, the Town Board finds that specific inconsistencies exist in the review process or significant new facts have now been made available and thus the final determination of the Town Board could differ from the advisory recommendation of the Plan Commission, the Town Board may, before taking final action, refer the matter back to the Plan Commission with the written record or separate statement/report explaining the specific reasons for referral. This referral action shall only be permitted one (1) time with each conditional use permit application.
 - (3) At the Town Board's discretion, the Town Board shall have the option to set and hold a public hearing at the next regular Town Board meeting. Such hearing shall be noticed and conducted as prescribed in this Chapter in compliance with the requirements of this Chapter and the Wisconsin Statutes. The Town Board shall make, and record in the minutes of the Town Board or in a separate statement/report, findings of fact and may impose and require any conditions the Town Board considers necessary to protect the public health, safety and welfare when approving and issuing a conditional use permit.
 - (4) The Town Board shall make a determination on conditional use applications (except Section 13-1-67 livestock facilities conditional uses) within ninety (90) days of the filing of a complete application
- (c) **Reapplication.** No application for a conditional use permit which has been denied in whole or in part by the Town Board shall be resubmitted for a period of one (1) year from the date of such denial, except on the grounds that substantial new evidence or proof of changes that would result in compliance with applicable conditions is included in the resubmitted application.

Cross-Reference: Sections 13-1-64 and 13-1-65.

Section 13-1-70 Validity of Conditional Use Permit.

- (a) Where the Town Board has approved or conditionally approved an application for a conditional use permit, such approval shall become null and void within twelve (12)

months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation.

- (b) When change of ownership occurs of a parcel of land that has a conditional use permit, the new owner shall meet with the Zoning Administrator to review the permit and any associated conditions.
- (c) The Town Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Town Board at least thirty (30) days before the expiration of said permit.

Section 13-1-71 Complaints Regarding Conditional Uses; Revocation of Permit

- (a) **Continuing Jurisdiction.** The Town Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Zoning Code.
- (b) **Complaints.** Upon written complaint by any citizen or Town official, the Town Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above or a condition of approval or other requirement imposed hereunder.
- (c) **Hearing.** Upon staff confirmation of possible non-compliance, a hearing shall be held following notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney.
- (d) **Board Modification of Conditions.** The Town Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Town Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use.
- (e) **Revocation.** In the event that no reasonable modification of such conditional use can be made in order to assure that standards (a) and (b) in Section 13-1-66 will be met, the Town Board may revoke the subject conditional use permit and direct the Zoning Administrator and the Town Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Town Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

Section 13-1-72 Home Occupations/Professional Home Offices

- (a) **Purpose.** The purpose of this Section is to balance the following public policy objectives:
 - (1) Protect residential and agricultural areas from adverse impacts of activities associated with home occupations/professional home offices;
 - (2) Permit residents of the community an opportunity to conduct a business at their place of residence; and
 - (3) Establish criteria and development standards for home occupations conducted in dwelling units and accessory structures in the Residential and Agricultural Districts.
- (b) **Intent.** The intent of this Section is to provide for certain types of restricted occupational uses within the Residential and Agricultural Districts which:
 - (1) Are incidental to the use of the premises as a residence or a farm;
 - (2) Are compatible with residential or agricultural uses;
 - (3) Are limited in extent; and
 - (4) Do not detract from the residential or agricultural character of the neighborhood.
- (c) **Definitions.** The following definitions are applicable in this Section:
 - (1) **Home Occupation.** Any business or commercial activity that is conducted on property that is zoned for residential, agricultural residential or agricultural use.
 - (2) **Minor Home Occupation.** A home occupation authorized by this Section without a hearing or a permit.
 - (3) **Major Home Occupation.** A home occupation that is authorized as a conditional use by the Zoning Board of Appeals under Article D of this Chapter.
 - (4) **Nonconforming Home Occupation.** One which was established and maintained prior to the effective date of this Section but is no longer allowed because of the application of this Section or any amendment hereto.
- (d) **General Standards.** The following standard shall apply to all home occupations:
 - (1) **Residency Requirement.** The person principally responsible for the home occupation must reside at the location of the proposed home occupation.
 - (2) **Incidental Use.** All home occupations shall be clearly incidental and secondary to the use of a dwelling or accessory structure for residential or agricultural purposes, and the appearance of the structure shall not be altered or the occupation within the dwelling or accessory structure be conducted in such a manner which would cause the premises to differ from its residential or agricultural character by either the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, odors or vibrations.
 - (3) **Hours.** Applications for a major home occupation/professional home office shall state requested hours open to the public, which shall be set by the Town Board as part of issuing a permit.
 - (4) **Parking.** A home occupation shall have adequate parking spaces available to compensate for additional parking needs generated.
 - (5) **Exterior Storage.** There shall be no exterior storage of business equipment, materials, merchandise, inventory, vehicles or heavy equipment.
 - (6) **Nuisance Activity.** Home occupations shall not produce noise or objectionable

odors, vibrations, glare, fumes or electrical interference detectable beyond the lot line of the parcel on which the home occupation is located.

- (7) **Improper Discharges.** Home occupations shall not illegally discharge any materials, fluids or gases into the sewer system or into an on-site waste disposal system nor discharge such items in violation of any applicable government regulation.
 - (8) **Garage/Craft Sales.** Garage sales, craft sales or other similar sales are permitted without a conditional use or other special permit provided that they meet the following standards:
 - a. Sales last no longer than three (3) consecutive days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they held on the property of one of the participants.
 - d. No goods purchased for resale are offered for sale.
 - e. No consignment goods may be offered for sale.
 - (9) **Signs.** Signage is permitted as allowed in Article G of this Chapter.
- (e) **Minor Home Occupations.**
- (1) **Minimum Standards.** A home occupation shall be considered a minor home occupation which is allowed without a conditional use permit or hearing, provided that said home occupation conforms to all of the following standards:
 - a. Minor home occupations shall not be conducted in any building on the premises other than the principal building.
 - b. No person other than a resident of the principal dwelling may be engaged or employed in a minor home occupation.
 - c. The area set aside for the home occupation shall not exceed twenty percent (20%) of the total floor area of such residence.
 - d. There shall not be conducted on the premises the selling of stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, the direct sale of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.
 - e. Parties for the purpose of selling merchandise or taking orders shall not be held more than four (4) times each month.
 - (2) **Types of Minor Home Occupations.** Permitted minor home occupations include, but are not limited to, the following:
 - a. Dressmaking, sewing and tailoring.
 - b. Painting, sculpturing or writing.
 - c. Telephone answering or marketing.
 - d. Home crafts for sale off-site.
 - e. Tutoring for five (5) or fewer students at a time; tutoring of more students at a time requires a conditional use permit.
 - f. Home cooking and preserving for sale off-site.
 - g. Computer programming, data entry or other data processing services.
 - h. Secretarial services.
 - i. On-premises sale of crafts, farm goods and food items. Examples are, but are not limited to, the sale of vegetables, eggs and/or rugs.
- (f) **Major Home Occupations.**

- (1) **Where Permissible.** A major home occupation is any proposed or existing home occupation that does not meet the standards for a minor home occupation as provided in Subsection (e) above and may only be allowed in the Residential or Agricultural Districts.
- (2) **Conditional Use Requirement.** A major home occupation may only be authorized as a conditional use by the Town Board following the provisions of Article D. Conditional use permits for major home occupations shall not be granted when it appears to the Town Board that the proposed home occupation will constitute a fire hazard to neighboring property owners, will adversely affect neighboring property values, or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, noise, odors or other circumstances.
- (3) **Authority to Impose Conditions.** In order to guarantee that a major home occupation, once authorized, will not become a nuisance to neighbors or otherwise violate these standards, the Town Board may impose reasonable conditions necessary to protect the public health, safety, and welfare.
- (4) **Minimum Standards.** In addition to any specific conditions imposed by the Town Board, all major home occupations shall also meet all of the following standards:
 - a. Major home occupations must be conducted within the principal dwelling or permitted accessory structure.
 - b. Major home occupations may not be located within five hundred (500) feet of any pre-existing neighboring residence.
 - c. No more than two (2) persons other than a resident of the principal dwelling may be employed or engaged in a major home occupation.
 - d. The area set aside for the major home occupation shall not exceed twenty percent (20%) of the total floor area of the principal dwelling. Where an accessory structure is used, the total floor area dedicated to the home occupation, including any area used in the dwelling, shall be limited to one thousand (1,000) square feet. The Town Board shall determine an appropriate maximum square footage for the footprint for the specific proposed home occupation as part of its review.
 - e. Only merchandise directly incidental to a service provided may be displayed or sold within the dwelling or structure used for a major home occupation.
 - f. Major home occupations authorized in an Agricultural District must be limited to agriculturally-related activities unless otherwise authorized by the Town Board.
- (5) **Conditional Uses to be Limited.** Conditional use permits for major home occupations granted under this Section shall be temporary in nature and shall be granted to a designated person who resides at the location of the home occupation. Conditional use permits are not transferable from person to person or from address to address.
- (6) **Applications.** Applications for major home occupation conditional use permits shall be filed with the Town Clerk with the required application fee. The application shall be forwarded to the Town Board for a public hearing. Legal notice shall be provided to nearby landowners as required for other conditional use applications.

- (g) **General Provisions; Inspections; Permit Revocations.**
- (1) **Inspections.** There may be one (1) annual inspection each year of any authorized home occupation by the Zoning Administrator or his/her designee. In addition, the Zoning Administrator or his/her designee shall have the right at any time, upon reasonable request, to enter and inspect the premises for safety and compliance purposes.
 - (2) **Transfers.** Should a home occupation permit holder or conditional use permit holder die or move to a new location, the existing permit shall automatically terminate, except that, in the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation, the Town Board may authorize continuation of that permit upon written request without further hearing.
 - (3) **Revocation.** Conditional use permits for a major home occupation, once granted, may be revoked by the Town Board for cause after hearing before the Town Board. All such revocations shall be in accordance with Article D.
 - (4) **Abatement.** Any nonconforming home occupation shall be discontinued or comply with all applicable provisions of this Section within one (1) year after the home occupation first became nonconforming.

Section 13-1-73 Mineral Extraction Conditional Uses

- (a) **Where Allowed.** Mineral extraction operations are conditional uses and may be permitted in accordance with the provisions of Article D of this Chapter, and in compliance with the Town Nonmetallic Mining Licensing Ordinance, only in the I-1 Industrial District.
- (b) **Use Restricted.** Mineral extraction operations shall include the removal of rock, slate, gravel, sand, or any other minerals from the earth by excavating, stripping or leveling.
- (c) **Permits.** Conditional use permits for mineral extraction operations shall be in effect for such period of time and subject to those conditions set forth in that permit; provided, however, such conditional use permit shall terminate upon failure of the permit to comply with any Town ordinance requiring annual quarrying permits.
- (d) **Application.** Applications for a conditional use permit for a mineral extraction operation shall be submitted to the Town Clerk and shall be accompanied by a fee as set by the Town Board to defray the cost of notification, holding of public hearings, administrative processing and inspection of such applications; a detailed description of all aspects of the proposed extraction operation; a list of equipment, machinery and structures which may be used; the source, quantity, and disposition of water to be used, if any; a legal description of the proposed site; a topographic map of the site and the area abutting the site, to the nearest public road right-of-way or a minimum distance of three hundred (300) feet on all sides of the site drawn at a minimum vertical contour interval of five (5) feet and showing all existing and proposed private access roads and the depth of all existing and proposed excavations; and a restoration plan.
- (e) **Referral and Public Hearing.** Application for conditional use permits for mineral extraction operations shall be referred to the Plan Commission for public hearing and the Commission shall report back to the Town Board with its recommendation within

sixty (60) days after the public hearing. The Plan Commission shall conduct such public hearing within sixty (60) days after referral. The Plan Commission shall fix a reasonable time and place for the hearing and public a Class One notice thereof. In addition, written notice of the public hearing shall be delivered by first class mail or shall be hand delivered by courier to all owners of the property within one-half (1/2) mile of the proposed mineral extraction operation. Substantial compliance with the notice requirements of this Section shall be deemed sufficient.

- (f) **Town Board Action.** The Town Board shall, within thirty (30) days after receipt of the recommendation from the Plan Commission issue or deny a conditional use permit for the proposed mineral extraction operation. The determination shall be based upon the effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety, and efficiency; the effect of the proposed operation on drainage and water supply, the possibility of soil erosion as a result of the proposed operation; the degree and effect of dust or noise as a result of the proposed operation; the practical possibility of restoration of the site; the effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area; and particular consideration for future residential use. Town Board determination regarding the issuance or denial of a renewal of a conditional use permit shall be based particularly on the evaluation of the effect of the continuance of the use in relation to changing conditions in the area. Where renewal is denied, the reason for denial shall be specifically outlined to the applicant in writing.
- (g) **General Requirements.**
- (1) Nonmetallic mining operations shall comply with the requirements of the Town of Cady Nonmetallic Mining Licensing Ordinance, St. Croix County Nonmetallic Mining Ordinance, NR 135, Wis. Adm. Code, this Section, and applicable federal state and county regulations, whichever standards are most restrictive.
 - (2) No part of the mineral extraction operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessible private access road or building be permitted closer than five hundred (500) feet to a district zoned residential at the time of the granting of the permit, except by written consent of the owners of all residentially zoned properties within one thousand (1,000) feet, but in no case shall such operation be permitted closer than two hundred (200) feet to a residential district.
 - (3) No mineral extraction operation shall be permitted if thirty (30) or more families reside within a half mile of the proposed site.
- (h) **Setback/Yard Requirements.** No part of the mineral extraction operation shall be permitted closer than fifty (50) feet to any property line, except with the written consent of the owner of the adjoining property, or where said mineral extraction operation is abutting an existing mineral extraction operation or an industrial district, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between the owners abutting mineral extraction operations.
- (i) **Operational Requirements.**
- (1) Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Plan Commission such fencing or barrier is necessary for the protection of the

- public, and shall be of a type approved by the Plan Commission.
- (2) All machinery and equipment used in mineral extraction operations shall be constructed, maintained and operated in such manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust free condition by surfacing or treatment as directed by the Town Board.
 - (3) The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Town Plan Commission to screen the operation so far as practical from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practical, but not later than one (1) year after mineral extraction operations have begun.
 - (4) Except in an industrial district, mineral extraction operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m., and no operations shall take place on Sundays or legal holidays.
 - (5) The applicant shall route all vehicles in a manner that will not damage Town roads. The applicant shall provide to the Town a bond written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the Town Board in an amount sufficient to repair damages to the Town roads caused by vehicles using the mineral extraction operation.

j) **Restoration Requirements.**

- (1) In order to insure that the area comprising the mineral extraction operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a conditional use permit, submit to the Plan Commission a plan for such restoration in the form of the following:
 - a. An agreement with the Town Board whereby the applicant contracts to restore the premises within a time satisfactory to the Town.
 - b. A restoration plan showing the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 - c. A bond written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the Town Board in an amount sufficient to secure the performance of the restoration agreement.
 - d. Such agreement and financial guarantee shall be in a form approved by the Town Attorney.
- (2) In the event of the applicant's failure to fulfill this agreement, or a new owner/applicant's failure to comply, such bond, check, or other financial guarantee shall be deemed forfeited for the purpose of enabling the Town to perform the restoration.
- (3) At any stage during implementation of the restoration, the plan may be modified by mutual agreement between the Town and the owner or the operator. Restoration shall proceed as soon as practicable and at the order and direction of the Town Plan Commission.
- (4) Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility or unsightliness. In any case the finished grade of the

restored area or areas of proposed building, or paving construction shall be of sufficient depth of earth to support plant growth.

- (5) Within one (1) year after the cessation of the mineral extraction operation, all temporary structures (excepting fences), equipment, stock piles, rubble piles or heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.
- (6) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of three (3) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of repose of the material involved.
- (k) **Inspection.** The Town Board may periodically conduct an inspection of mineral extraction operations to ascertain whether or not the requirements of this Section and any previously agreed upon conditions are being met.

Section 13-1-74 Appeals Of Actions On Conditional Use Permit Requests.

Any action of the Town Board in granting or denying a conditional use permit request may be appealed to the Circuit Court per State Statute.

Section 13-1-75 Large Livestock Facilities Conditional Uses.

- (a) **General Applicability.** The procedures in this Section apply to large livestock facilities that require a conditional use under this Chapter and are supplementary to the general conditional use procedures of this Article. The other provisions of this Article regarding the review and granting of conditional use permits shall not be applicable to large livestock facilities conditional uses unless specifically referred to by this Section.
- (b) **Conditional Use Permits for Existing Livestock Facilities.**
 - (1) **When Required.** A conditional use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - a. The applicable size threshold for a conditional use permit established for the zoning district in Article C where the facility is located.
 - b. The maximum number previously approved or, if no maximum number was previously approved, a number that is twenty percent (20%) greater than the number of animal units kept on the original effective date of this Chapter.
 - (2) **When Permit Is Not Required.**
 - a. A permit is not required for a livestock facility that existed before the original effective date of this Chapter.
 - b. A permit is not required for a livestock facility that was previously issued a conditional use permit or other local approval, except as provided in Subsection (b)(1) above. [Note: A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house,

except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

(c) **Application Procedure.**

- (1) **Filing Requirements.** A livestock operator filing for a livestock facility conditional use permit shall complete the application and worksheets of the Wisconsin Department of Agriculture, Trade and Consumer Protection prescribed in ATCP 51, Wis. Adm. Code, which are incorporated herein by reference without reproduction in full. The application form and worksheets establish compliance with the standards of ATCP 51, Wis. Adm. Code and this Chapter. The livestock operator shall file four (4) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application. If the conditional use permit application is locally approved, one (1) duplicate copy of the conditional use permit application must be filed with the Wisconsin Department of Agriculture, Trade and Consumer Protection, and one (1) duplicate copy marked "approved" shall be given back to the applicant. It is advisable that the applicant also record a duplicate "approved" copy with St. Croix County Register of Deeds.
- (2) **Fees.** A nonrefundable application fee as required by Section 1-3-1 shall accompany an application. Processing of the application shall not proceed until such fee is paid.

(d) **Application Review Procedure.**

- (1) **Notice of Application Completeness.** Within forty-five (45) days after the Town, or its Zoning Administrator, receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the Zoning Administrator shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
- (2) **Notification of Adjacent Landowners.** Within fourteen (14) days after the Zoning Administrator notifies an applicant that his/her application is complete, the Zoning Administrator or Town Clerk shall notify adjacent landowners of the application pursuant to the procedures in Section 13-1-65, and this Article, including the public hearing notice requirements below. The Zoning Administrator shall use the approved notice form in ATCP 51, Wis. Adm. Code, and mail a written notice to each property owner situated within three hundred (300) feet of the property lines of the applicant's property pursuant to Section 13-1-65.
- (3) **Public Hearing.** The Town shall schedule a public hearing on the application/notification pursuant to the requirements of Sections 13-1-64 and 13-1-65 before both the Plan Commission and Town Board meetings.

(e) **General Standards.** The general standards to be satisfied for issuance of a conditional use permit are as follows:

- (1) **State Livestock Facility Siting Standards.** The State of Wisconsin livestock facility siting standards prescribed under ATCP, Wis. Adm.

Code These state standards are incorporated herein by reference, without reproducing them in full.

- (2) **Ordinance Setbacks.** Setbacks authorized by this Chapter by applicable zoning district.
- (f) **Criteria for Issuance of a Permit.**
- (1) **Compliance With Standards.** A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this Section.
 - (2) **Basis for Denial.** A conditional use permit application under this Section may be denied if any of the following apply:
 - a. The application, on its face, fails to meet the standard for approval.
 - b. The Town Board finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this Section.
 - c. Other grounds exist authorized by Section 93.90, Wis. Stats. that warrants disapproving the proposed livestock facility.
 - (3) **Conditions.** No conditions may be imposed on a conditional use permit under this Section other than standards described and provided in this Section.
- (g) **Determination.**
- (1) **Plan Commission Advisory Recommendation.**
 - a. Following referral of the conditional use permit application under this Section, the Plan Commission may recommend that the Town Board issue a conditional use for livestock uses specified under this Chapter after review and public hearing, provided such uses are in accordance with the purpose and intent of the underlying zoning district, and, more specifically, the standards for such conditional use permits under this Section.
 - b. The Plan Commission shall make findings of fact and recommend such actions or conditions relating to the request as the Plan Commission deems necessary to carry out the intent and purpose of this Section.
 - (2) **Town Board Action.**
 - a. Upon receiving the recommendation of the Plan Commission, the Town Board shall place the application and such recommendation(s) on the agenda for a subsequent Board meeting. The hearing requirements of Subsection (d)(3) shall be followed.
 - b. If, following the recommendations of the Plan Commission, the Town Board finds that specific inconsistencies exist in the review process or significant new facts have now been made available and thus the final determination of the Town Board could differ from the advisory recommendation of the Plan Commission, the Town Board may, before taking final action, refer the matter back to the Plan Commission with the written record or separate statement/report, explaining the specific reason(s) for referral. This referral action shall only be permitted one (1) time with each

- conditional use permit application under this Section.
- c. At the Town Board's discretion, the Town Board shall have the option to set and hold a public hearing at the next regular Town Board meeting. Such hearing shall be noticed and conducted as prescribed in Sections 13-1-64 and 13-1-65.
 - d. The Town Board shall issue its decision in writing, which may be the minutes of the Town Board's meeting. The Town Board's decision shall be based on written findings of fact supported by evidence in the record. In the event that a livestock facility conditional use permit application is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved". The duplicate copy must include worksheets, maps and other documents included in the application.
 - e. The Town Board shall grant, deny or conditionally approve a livestock facility conditional use permit application within ninety (90) days after the notice of a complete application is provided as required under Subsection (d) above.
 - f. The Town Board may extend this time for good cause, including any of the following:
 - 1. The Town Board needs additional information to act on the application.
 - 2. The applicant materially modifies the application or agrees to an extension.
 - g. The Town Board shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town Board will act on the application.
- (h) **Notice To The State.** As required by ATCP 51.36, Wis. Adm. Code, within thirty (30) days of the Town Board's decision on the application, the Town Clerk shall:
- (1) **Notice of Decision.** The Town Clerk shall give the Wisconsin Department of Agriculture, Trade and Consumer Protection written notice of the Town's decision.
 - (2) **Filing Of Final Application/Worksheets.** The Town Clerk shall file with the Wisconsin Department of Agriculture, Trade and Consumer Protection a copy of the final application granted or denied, if the Town has granted or denied an application under this Section. Such copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.
 - (3) **Approval Withdrawal.** If the Town has withdrawn a local animal livestock facility conditional use permit approval under this Section, the Town Clerk shall file with the Department a copy of the Town final notice or order withdrawing the local approval.
- (i) **Permit Expiration.** A conditional use permit under this Section remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under such permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Town Board may treat a conditional use permit under this Section as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after issuance of the permit:
- (1) **Animal Populating Requirement.** Begin populating the new or expanded livestock facility; and

- (2) **Construction Requirement.** Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the conditional use permit application.
- (j) **Permit Modifications.** The operator may make reasonable changes that maintain compliance with the standards in this Section, and the Town Board shall not withhold authorization for those changes.
- (k) **Compliance Monitoring.** The Town of Cady shall monitor compliance with this Section as follows:
 - (1) **Inspections.** Upon notice to the livestock facility owner request the right of the Zoning Administrator or designee to personally view the permitted facility at a reasonable time and date to insure that all conditions of the application as approved are being complied with.
 - (2) **Inspection Refusal.** If the livestock facility owner refuses the Zoning Administrator or designee the right to view the permitted facility, the Zoning Administrator or designee may request the assistance of the Sheriff's Department to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Section 66.0119, Wis. Stats.
 - (3) **Noncompliance; Time to Correct.** If a permitted facility is found not to be in compliance with the commitments made in the approved application, the Zoning Administrator or designee shall issue a written notice to the livestock facility owner stating the conditions of noncompliance and directing that compliance of the commitments of the approved application and be complied with in a reasonable amount of time stated in the written notice.
 - (4) **Failure to Correct.** If noncompliance of the conditional use permit conditions as described in the written notice given by the Zoning Administrator continue past the stated reasonable time to comply, the Zoning Administrator may take further action as provided in this Section and Zoning Code, including, but not limited to, issuance of a citation or seeking of injunctive relief.
 - (5) **Compliance Disputes; Hearing.** If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing, such request to be in writing to the Town Clerk within five (5) days of receipt of the notice of noncompliance. Upon receipt of such written hearing request, the Town Board shall schedule a hearing within five (5) days to determine if the conditions of the permit have been complied with or whether noncompliance of the commitments of the approved application and local approval exists.
- (l) **Terms of the Permit; Violations.**
 - (1) **Compliance With Permit Standards.** A livestock facilities conditional use permit, and the privileges granted by such a permit under this Section, is conditioned on the livestock operator's compliance with the standards in this Section, and with the commitments made in the application for a permit.
 - (2) **Violations; Penalties.**
 - a. The Town of Cady is authorized to suspend a livestock facilities conditional use permit or seek other redress in this Section and Zoning Code for noncompliance, including, but not limited to, penalties under Section 13-1-202 of this Chapter and permit revocation or suspension, forfeiture and/or injunctive relief. In considering permit suspension or

revocation, the Town Board shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

- b. In addition to any penalties herein, the cost of abatement of any public nuisance on the permitted facility by the Town may be collected under this Section or Section 823.06, Wis. Stats., against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Section 66.0627, Wis. Stats., unless paid earlier.

(m) **Transferability.**

- (1) **Permit To Run With Land.** A livestock facilities conditional use permit and the privileges granted by the permit run with the land, and remain in effect, despite a change in ownership of the livestock facility, provided the new operator does not violate the terms of the Town approval. An applicant may record with the Register of Deeds, at the applicant's expense, the duplicate copy of the approved application.
- (2) **Requirements Upon Change of Ownership.** Upon a change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including, but not limited to, such information as the name and address of the new owner and date of transfer of ownership.

(n) **Appeals.**

- (1) **Appeals Under This Chapter.** Appeals to this Section shall be taken pursuant to Article L of this Chapter.
- (2) **Appeals To State Livestock Facility Siting Board.**
 - a. In addition to other appeal rights provided by law and this Chapter, Section 93.90(5), Wis. Stats., provides that any aggrieved person may request review by the Livestock Facility Siting Review Board of any decision by the Town in connection with a permit application.
 - b. An aggrieved person may challenge the decision on the grounds that the Town incorrectly applied the standards under this Section or violated Section 93.30, Wis. Stats.
 - c. An "aggrieved person" under this Section as defined in Section 93.90(5), Wis. Stats., means a person who applied to a political subdivision, i.e. Town, for approval of a livestock siting or expansion, a person who lives within two (2) miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within two (2) miles of a livestock facility that is proposed to be sited or expanded.
 - d. Any appeal to the State Livestock Facility Siting Review Board brought under this Subsection shall be requested within thirty (30) days of the Town Board approval or disapproval or within thirty (30) days after the decision on appeal before the Zoning Board of Appeals.

Section 13-1-76 Temporary Mobile Home Placement Conditional Use.

- (a) **General Provisions.** Mobile homes may be placed in zoning districts where specifically permitted for the purpose of providing housing for a parent or

grandparent provided that the unit is placed on piers or a foundation or slab. Such mobile homes are prohibited from being used as rental units. If a new principal structure is constructed on a parcel with a pre-existing mobile home on the parcel, the mobile home shall be removed within six (6) months of occupancy of the principal structure or a new, separate parcel must be created for placement of the mobile home.

- (b) **Temporary Placement Exception.** A limited exception to Subsection (a) above is that a conditional use permit may be granted pursuant to this Article for the temporary placement of a mobile home when extraordinary circumstances exist, such as, but not limited to, where a principal dwelling has been damaged by fire or other catastrophe, a new principal residence is under construction, etc. If granted, such conditional use permit shall be invalid after eight (8) months, after which the property owner is responsible for removing the mobile home from the property at his/her cost within six (6) months. A waste management plan is required.
- (c) **Parent or Grandparent Residence Exception.** A conditional use permit may be granted pursuant to this Article for the limited placement of a mobile home on a lot on which there is a principal residence for the sole purpose of providing a residence for the parent(s) or grandparent(s) of the lot owner. Such mobile home shall be removed within six (6) months after the parent(s) or grandparent(s) ceases to live in the mobile home. Such mobile home shall not be rented to other parties.
- (d) **Removal Permission.** By virtue of being granted a conditional use permit, the property owner gives the Town of Cady permission to remove any mobile home located on his/her property in violation of this Section after the conditional use permit has expired, the cost of which shall be a special charge against the property. The Town shall give the property owner written notice that the Town will remove the mobile home if the property owner doesn't do so within 30 days, and that any cost incurred by the Town shall be certified to St. Croix County as a special charge against the property. As part of the application for a conditional use permit under this Section, the property owner shall provide the Town with evidence that a new or repaired non-mobile home principal residence will be constructed on the property, such as a contractor contract, a contract for building supplies, etc. The Town shall have no liability for any damage to the mobile home during removal by the Town.
- (e) **Contract Requirement.** If issued a conditional use permit, the property owner shall also enter into a contract with the Town of Cady agreeing to the terms contained in this Section and any additional conditions placed on the conditional use permit by the Town of Cady.

Section 13-1-77 Dog Kennel Conditional Use Permit

- (a) The following minimum standards are applicable to dog kennels in all districts:
 - (1) Kennel structures housing animals shall provide soundproofing so that animal noise cannot be heard beyond the property lines.
 - (2) Kennel structures shall be located at least 50 feet from any potable water supply well.
 - (3) All animals shall be housed indoors from 9pm to 6am.
 - (4) There shall be no more than two adult dogs or cats, six months of age or older, in any single enclosure unit.

- (5) Management of animal waste must be such that odors are not perceptible at lot lines.
- (6) No more than two adult dogs, six months of age or older, are allowed outside at any one time.
- (7) Kennel structures shall be set back at least 300 feet from all property lines.

Sections. 13-1-78 through Section 13-1-79 RESERVED FOR FUTURE USE

DRAFT

ARTICLE E NONCONFORMING USES, STRUCTURES AND LOTS

Section 13-1-80 Intent-Nonconforming Uses, Structures and Lots

- (a) **Intent; Interpretation.**
 - (1) Within the zoning districts established by this Zoning Code or amendment thereof, there may exist lots, structures and uses of land which were lawful before this Zoning Code was enacted or amended, but which would be prohibited in the future under the terms of this Zoning Code or amendment thereto.
 - (2) It is the intent of the Town of Cady to permit nonconforming uses, lots and structures to remain and continue in accordance with the provisions hereinafter set forth until they are removed due to economic forces, public health or safety grounds, or otherwise. It is not the intent of this Zoning Code to perpetuate and/or encourage the long-term continuance of nonconformities because they are inconsistent with the requirements and character of the districts involved, or to permit nonconformities to be generally enlarged upon, expanded, or extended except as provided for herein. Existing nonconformities shall not be used to justify adding structures or uses prohibited in the zoning district.
- (b) **Classification of Nonconformities.** Zoning nonconformities are classified into three (3) categories as follows:
 - (1) Nonconforming uses.
 - (2) Nonconforming lots.
 - (3) Nonconforming structures.
- (c) **General Guidelines.** It is the intention of the Town of Cady that standards be set forth for the purpose of determining:
 - (1) That the nonconforming use, lot or structure existed prior to the effective date of this Chapter or amendment thereto;
 - (2) The ways in which the right of the nonconforming use, lot or structure to remain can be preserved and the ways in which the right to continue nonconforming use, lot or structure can be lost;
 - (3) The extent of permissible variation in the nonconforming use, lot or structure; and
 - (4) The devices available for eliminating such nonconforming uses, lots or structures, where appropriate.
- (d) **Burden of Proof Regarding Nonconforming Uses.** Any property owner asserting as a defense to a charge of violating this Chapter because his/her property is a valid nonconforming use has the burden of demonstrating to reasonable certainty by the greater weight of credible evidence that:
 - (1) The nonconforming use was legally in existence at the time the zoning ordinance provision that now prohibits that use was adopted. The use must be lawful under then existing zoning regulations and cannot contravene such zoning requirements.
 - (2) That the use of the property prior to the nonconformity came into being was so active and actual that the property owner can properly assert that the property

owner has acquired a vested interest in its continuance. Such use cannot be occasional or sporadic. For purposes of this Chapter, a property owner shall be deemed to have a vested right in the use of his/her property where that use at the time the nonconformity came into being is both actual and active and a substantial degree of activity or expense had been undertaken prior to the effective date the zoning provision that caused the nonconformity to come into being. Such use must be more than incidental or accessory to the principal use of the property.

- (3) That the use is substantially the same use that existed prior to the enactment of the ordinance or amendment thereto that caused the nonconformity.

Section 13-1-81 Article Definitions.

In addition to the definitions contained in Section 13-1-260(a) of this Chapter, the following definitions shall be applicable in Article; in the event of conflict, the more specific definition shall be applicable:

- (a) **Assessed Value (Lot).** The full market value placed upon the lot by the Town Assessor as of the date that the nonconformity came into being. Such valuation by the Assessor shall be prima facie evidence of an assessed value of the lot.
- (b) **Nonconforming Lot.** [See definition in Section 13-1-260(a)].
- (c) **Nonconforming Structure.** [See definition in Section 13-1-260(a)].
- (d) **Nonconforming Use.** [See definition in Section 13-1-260(a)].

Section 13-1-82 Existing Nonconforming Structures.

- (a) **Continuation of Nonconforming Structures.**
 - (1) The use of a structure existing on the date that the nonconformity came into being may be continued although the structure's size or location does not conform with the development regulations, parking, loading, or access provisions of this Chapter.
 - (2) Any lawful nonconforming structure may be extended, enlarged, reconstructed, or structurally altered, provided that said extension, enlargement, reconstruction, movement or alteration complies with the setback and building requirements of the specific zoning district. However, the nonconforming feature of said structure shall not be allowed to become more nonconforming by being extended, enlarged, reconstructed, moved, or structurally altered except under one (1) or more of the following fact situations:
 - a. As when required to do so by law, or order.
 - b. To comply with the provisions of this Chapter.
 - c. With the approval of a conditional use permit under the procedures of Article D of this Chapter for the purpose of making required alterations to maintain the structural integrity of the building.
 - d. With the approval of a variance by the Zoning Board of Appeals.
- (b) **Yard Encroachments by Nonconforming Structures.** Nonconforming structures which encroach upon the yard (setback) requirements of this Chapter, but which met yard requirements at the time the nonconformity came into being at the time of

construction, may be structurally enlarged or expanded if the existing structure is located at a minimum of at least fifty percent (50%) of the minimum setback requirement(s) and further provided that the alteration does not create a greater degree of encroachment on yard, height, parking, loading, or access requirements. Placement of a new foundation or basement under an existing nonconforming structure shall be allowed as long as no further encroachment is permitted. The setbacks of the zoning district in which the structure is located shall be met if the lot size and existing location of the structure permits the setbacks to be met.

- (c) **Unsafe Nonconforming Structures.** Nothing in this Chapter shall preclude the Building Inspector or any other Town official from initiating remedial or enforcement actions when a lawful nonconforming structure is declared unsafe or presents a danger to the public health, safety, or welfare, constitutes a public nuisance, or is in violation of a licensing regulation.
- (d) **Maintenance, Repair and Remodeling of Nonconforming Structures.** This Chapter does not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.
- (e) **Restoration of Certain Damaged Nonconforming Structures.**
 - (1) In the case of damaged or destroyed nonconforming structures, the restoration of a nonconforming structure is permitted if the structure will be restored to the size, subject to Subsection (e)(2) below, location and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:
 - a. The nonconforming structure was damaged or destroyed on or after March 2, 2006.
 - b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
 - (2) Where the criteria under Subsection (e)(1) above exist for a nonconforming structure to be restored, the size of the structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable federal or state requirements.
- (f) **Shoreland Nonconforming Structures.** Nonconforming structures in shoreland areas damaged or destroyed by violent wind, fire, flood, or vandalism may be reconstructed or repaired, as provided by state law, to the size, location, and use it had immediately before the damage occurred if the landowner can establish that the damage was not due to deliberate act by the landowner or his/her agent, or due to general deterioration or dilapidated condition. Applicable County permits and standards need to be met.
- (g) **Relocation of Nonconforming Structures.** A nonconforming structure shall not be moved or relocated to any other location on the lot unless such structure is made to conform to all regulations of the zoning district in which it is located.

Section 13-1-83 Existing Nonconforming Uses.

Pursuant to Section 62.23(7)(h), Wis. Stats., a nonconforming use may not be extended. The total structural repairs and alterations in such a nonconforming use's building,

premises, structure, or fixtures shall not during its life exceed fifty percent (50%) of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. The nonconforming use of a structure, land, or water existing on the date that the nonconformity came into being may be continued although the use does not conform with the provisions of this Chapter, except that:

- (a) **Change to More Restrictive Use Category.** The nonconforming use of a structure may be changed to a use of the same or more restricted classification, but where the nonconforming use of a structure is hereafter changed to a use of a more restrictive classification, it shall not thereafter be changed to a use of a less restricted classification.
- (b) **Discontinuation of Nonconforming Use.** If a nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Chapter.
- (c) **Maintenance of Nonconforming Use Parcels.** Parcels containing a nonconforming use of land or water may be maintained or repaired including grading, paving, and surfacing, or the repair and replacement of bumper or wheel stops, fences, screening and drainage ways, provided that the amount of land, water or storage (i.e. vehicles, equipment and/or materials) devoted to such nonconforming use as it existed prior to the date that the nonconformity came into being is not extended, enlarged or moved.

Section 13-1-84 Changes and Substitutions.

Once a nonconforming use or structure has been changed or altered so as to comply with the pertinent district provisions of this Chapter, it shall not revert back to a nonconforming use or structure. Once the Plan Commission has permitted the substitution of a more or equally restrictive nonconforming use for an existing nonconforming use pursuant to the provisions of Article N, the existing use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Plan Commission and pertinent zoning district. Substitution of new equipment may be permitted by the Plan Commission if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

Section 13-1-85 Floodplain and Shoreland-Wetland Nonconforming Uses and Structures

- (a) **Nonconformities in Floodplain Zoning Areas.** Nonconformities in Floodplain Zoning areas shall be governed by the provisions of the St. Croix County Code of Ordinances regulating floodplain zoning, and pertinent sections of the Wisconsin Statutes and Wisconsin Administrative Code.
- (b) **Nonconformities in Shoreland-Wetland Zoning Areas.** Nonconformities in Shoreland-Wetland Zoning areas shall be governed by the provisions of the St. Croix County Code of Ordinances regulating shoreland-wetland zoning, and pertinent sections of the Wisconsin Statutes and Wisconsin Administrative Code.
State Law References: Section 87.303, Wis. Stats., NR 115, and NR 116.15, Wis. Adm. Code

Section 13-1-86 Nonconforming Performance Standards.

The use of any lot or parcel failing to comply with the performance standards set forth in this Chapter at the time of the adoption of this Chapter shall not be expanded unless the expansion conforms to the performance standards set forth in this Chapter.

Section 13-1-87 through Section 13-1-99 RESERVED FOR FUTURE USE

DRAFT

ARTICLE F

TRAFFIC VISIBILITY, LOADING, PARKING AND ACCESS

Section 13-1-100 Traffic Visibility Triangle.

On corner parcels in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection.

Section 13-1-101 Parking Requirements.

All new parking lots on parcels in Commercial or Industrial Districts created after the effective date of this Zoning Code shall be subject to the approval of the Town Board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located in a fire district as designated on the official map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street shall be provided for each parking space.
- (b) **Design Standards.** Each required off-street parking space shall have a stall width of at least ten (10) feet and a stall length of at least eighteen (18) feet. Such space shall have a vertical clearance of at least six and one-half (6-1/2) feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not 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 centerline of parking space and centerline of aisle), and twelve (12) feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to twenty-three (23) feet. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.
- (c) **Location.** The location of parking is to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
- (d) **Surfacing.**
 - (1) It shall be the responsibility of the owner that new off-street parking areas for more than ten (10) customer/employee vehicles in the C-1 and I-1 Districts shall be graded so as to be properly drained, and shall have the aisles and spaces clearly marked in all C-1 and I-1 Districts if surfaced.

- (2) All new such open off-street parking areas shall be surfaced with a gravel course or all-weather material capable of carrying a wheel load of four thousand (4,000) pounds [normally, a two (2) inch blacktop on a six (6) inch base or, in the alternative, five (5) inches of Portland cement will meet this requirement.]
- (e) **Additional Requirements.**
- (1) **Plans.** All plans for such proposed new parking areas require the approval of the Zoning Administrator and Building Inspector.
- (2) **Special Residential Requirements.** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.
- (3) **Lighting.** Any lighting used to illuminate new off-street parking areas shall be directed away from other properties and public streets in such a way as not to create a nuisance. All such lighting shall be properly shielded to be directed downwards.
- (f) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

Use	Minimum Parking Required
Single-family and two family dwellings; mobile homes	No minimum
Multi-family dwellings	One (1) stall for each dwelling unit
Housing for the elderly	One (1) stall for each dwelling unit
Motels	One (1) stall for each guest room plus one (1) stall for each two (2) employees
Institutions, clubs, rest and nursing homes	One (1) stall for each four (4) beds plus one (1) stall for each two (2) employees
Medical and dental clinics	One (1) stall for every 150 square feet of gross floor area
Churches, community centers, schools, and other places of public assembly	One (1) stall for every three seats
Restaurants, bars, places of entertainment, repair shops, retail, and service stores	Two (2) stalls for each 150 square feet of retail floor area, plus one (1) stall per employee
Manufacturing and processing plants, laboratories, and warehouses	One (1) stall for every two (2) employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government,	One (1) stall for each 200 square feet of floor

and professional offices	area and one (1) stall for each two (2) employees
Motor vehicle sales (new and used)	One (1) stall for each 500 square feet of floor area used plus one (1) stall for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages – see above.)
Automobile repair garages and service stations	One (1) stall for each employee plus one (1) stall for each 250 square feet of floor area used for repair work.

- (g) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (h) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (i) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change, as determined by the Zoning Administrator.

Section 13-1-102 through Section 13-1-119 RESERVED FOR FUTURE USE

ARTICLE G WIND ENERGY SYSTEMS; MOBILE TOWER SITING

Section 13-1-140 Wind Energy Systems.

No person shall construct or operate a wind energy conversion system (WECS) in the Town of Cady without having fully complied with the provisions of PSC 128, Wis. Adm. Code.

Section 13-1-141 Mobile Tower Siting.

(a) **Title; Purpose; Authority.**

- (1) **Title.** This Section is entitled the Town of Cady Mobile Tower Siting Ordinance.
- (2) **Purpose.** The purpose of this Section is to regulate by zoning permit:
 - a. The siting and construction of any new mobile service support structure and facilities;
 - b. With regard to a Class I collocation, the substantial modification of an existing support structure and mobile service facilities; and
 - c. With regard to a Class II collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- (3) **Authority.** The Town Board of the Town of Cady has the specific authority under Wisconsin Statutes 62.23 and 66.0404 to adopt and enforce this Section.

(b) **Definitions.** The following definitions shall be applicable in this Section:

- (1) **Antenna.** Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
- (2) **Building Permit.** A permit issued by the Town that authorizes an applicant to conduct construction activity that is consistent with the Town's Building Code [Title 15, Chapter 1 of this Code of Ordinances J.
- (3) **Class 1 Collocation.** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
- (4) **Class 2 Collocation.** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
- (5) **Collocation.** Class 1 or Class 2 collocation or both.
- (6) **Distributed Antenna System.** A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
- (7) **Equipment Compound.** An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
- (8) **Existing Structure.** A support structure that exists at the time a request for

permission to place mobile service facilities on a support structure is filed with the Town.

- (9) **Fall Zone.** The area over which a mobile support structure is designed to collapse.
- (10) **Mobile Service.** Has the meaning given in 47 USC 153(33).
- (11) **Mobile Service Facility.** The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a planned geographic area, but does not include the underlying support structure.
- (12) **Mobile Service Provider.** A person who provides mobile service.
- (13) **Mobile Service Support Structure (Tower).** A freestanding structure that is designed to support a mobile service facility.
- (14) **Permit.** A permit, other than a building permit, or approval issued by the Town which authorizes any of the following activities by an applicant:
 - a. A Class 1 collocation.
 - b. A Class 2 collocation.
 - c. The construction of a mobile service support structure.
- (15) **Public Utility.** Has the meaning given in Section 196.01(5), Wis. Stats.
- (16) **Search Ring.** A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.
- (17) **Substantial Modification.** The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
 - a. For structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet.
 - b. For structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten percent (10%) or more.
 - c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by twenty (20) feet or more, unless a larger area is necessary for collocation.
 - d. Increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.
- (18) **Support Structure.** An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.
- (19) **Utility Pole.** A structure owned or operated by an alternative telecommunications utility, as defined in Section 196.01(l), Wis. Stats.; public utility, as defined in Section 196.01(5), Wis. Stats.; telecommunications utility, as defined in Section 196.01(10), Wis. Stats.; political subdivision; or cooperative association organized under Ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Section

182.017(lg)(cq), Wis. Stats.; for video service, as defined in Section 66.0420(2)(y), Wis. Stats.; for electricity; or to provide light.

(c) **Siting and Construction of Any New Mobile Service Support Structure and Facilities; Regulation Limitations.**

(1) **Application Process.**

- a. A Town zoning permit is required for the siting and construction of any new mobile service structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit through the conditional use permit process.
- b. A written permit application shall be completed by the applicant and submitted to the Town Clerk. The application shall contain the following information:
 1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address - shall be provided.
 2. The location of the proposed or affected support structure.
 3. The location of the proposed mobile service facility.
 4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the Town upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.
- d. If an applicant submits to the Town an application for conditional use and zoning permits to engage in an activity described in this Section, which contains all of the information required under this Section, the Town shall consider the application complete. If the Town determines that the application is incomplete, the Town shall notify the applicant in

writing, within ten (10) days of receiving the application, **that** the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is considered complete.

- e. Within ninety (90) days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety (90) day period:
 - 1. Review the application to determine whether it complies with all applicable aspects of the Town's Building Code and, subject to the limitations in this Section, provisions of this Zoning Code.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement under Subsection (c)(1)b6.
- g. If the applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in the Zoning Code, that Zoning Code provision does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit shall be as provided in the Town fee schedule [but may not exceed Three Thousand Dollars (\$3,000.00) per Section 66.0404(4)(d), Wis. Stats.].

- (2) **Regulatory and Application Limitations.** With regard to the siting and construction of a new mobile service support structure/facilities, the substantial modification of an existing support structure and mobile service facility as part of a Class 1 collocation, or a Class 2 collocation, the Town, pursuant to Section 66.0404(4), Wis. Stats., shall not:
- a. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
 - b. Enact a moratorium ordinance on the permitting, construction, or approval of any such activities.
 - c. Enact an ordinance regulation prohibiting the placement of a mobile service support structure in particular locations within the Town.
 - d. Charge a mobile radio service provider a fee in excess on the amounts prescribed in Section 66.0404(4)(d), Wis. Stats.
 - e. Charge a mobile radio service provider any recurring fee for an activity described in Section 66.0404(2)(a), Wis. Stats., or a Class 2

- collocation.
- f. Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.
 - g. Disapprove of an application to conduct an activity described in Section 66.0404(2)(a), Wis. Stats., based solely on aesthetic concerns.
 - h. Disapprove an application to conduct a Class 2 collocation on aesthetic concerns.
 - i. Enact or enforce a Town ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
 - j. Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the Town which fall into disuse. [Note: Per Section 66.0404(4)(i), Wis. Stats., there is a rebuttable presumption that a surety requirement of Twenty Thousand Dollars (\$20,000.00) or less complies with this Subsection.]
 - k. Prohibit the placement of emergency power systems.
 - l. Require that a mobile service support structure be placed on property owned by the political subdivision.
 - m. Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
 - n. Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the Town at less than market rate, or provide the Town other services via the structure or facilities at less than the market rate.
 - o. Limit the duration of any permit that is granted.
 - p. Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
 - q. Disapprove an application based on an assessment by the Town of the suitability of other locations for conducting the activity.
 - r. Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
 - s. Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.
 - t. Consider an activity a substantial modification under Subsection (b)(17)a-b above if a greater height is necessary to avoid interference with an existing antenna.
 - u. Consider an activity a substantial modification under Subsection (b)(17)c above if a greater protrusion is necessary to shelter the antenna from increment weather or to connect the antenna to the existing structure by cable.
 - v. Limit the height of a mobile support structure to less than two hundred (200) feet.
 - w. Condition the approval of an application on, or otherwise require, the

applicant's agreement to indemnify or insure the Town in connection with the Town's exercise of its authority to approve the application.

- x. Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Town to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Town or an entity in which the Town or other political subdivision has a governance, competitive, economic, financial or other interest.

(d) **Class 1 Collocation.**

(1) **Application Process.**

- a. A zoning permit is required for a Class I collocation. A Class 1 collocation is a conditional use in the Town obtainable with this permit through the conditional use process of this Chapter.
- b. A written permit application shall be completed by the applicant and submitted to the Town Clerk. The application must contain, at a minimum, the following information:
 - 1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
 - 2. The location of the proposed or affected support structure.
 - 3. The location of the proposed mobile service facility.
 - 4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - 5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - 6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the Town upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.
- d. If an applicant submits to the Town an application for a permit to engage in an activity described in this Section, which contains all of the

information required under this Section, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- e. Within ninety (90) days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety (90) day period:
 - 1. Review the application to determine whether it complies with all applicable aspects of the Town's Building Code and, subject to the limitations of this Section, zoning ordinances.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Subsection (d)(l)b6.
- g. If an applicant provides the Town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that Zoning Code provision does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit shall be as provided in the Town fee schedule, but may not exceed Three Thousand Dollars (\$3,000.00) per Section 66.0404(4)(d), Wis. Stats.].

(2) **Regulatory and Application Limitations.** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.

(e) **Class 2 Collocation.**

(1) **Application Process.**

- a. A Town zoning permit is required for a Class 2 collocation. A Class 2 collocation is a permitted use in the Town but still requires the issuance of Town building permits.
- b. A written permit application shall be completed by the applicant and submitted to the Town Clerk. The application must contain, at a minimum, the following information:
 - a. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.

- c. A permit application will be provided by the Town upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.
 - d. Per Title 15, Chapter 1 of this Code of Ordinances, a Class 2 collocation is also subject to the same requirements for the issuance of a building permit to which any other type of commercial development/construction or land use development is subject.
 - e. If an applicant submits to the Town an application for a permit to engage in an activity described in this Section, which contains all of the information required under this Section, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - f. Within forty-five (45) days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the forty-five (45) day period:
 1. Make a final decision whether to approve or disapprove the application.
 2. Notify the applicant, in writing, of its final decision.
 3. If the application is approved, issue the applicant the relevant permit.
 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - g. The fee for the permit shall be as provided in the Town fee schedule [but may not exceed Five Hundred Dollars (\$500.00) or the commercial building permit fee equivalent, per Section 66.0404(4)(d)]
- (2) **Regulatory and Application Limitations.** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.
- (f) **Penalty Provisions.** Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this Section shall, upon conviction, be subject to the penalties and/or forfeitures prescribed in Section 13-1-202, plus applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Section. In addition, the Town of Cady may seek injunctive relief from a court of record to enjoin further violations.

Section 13-1-142 through Section 13-1-159 RESERVED FOR FUTURE USE

ARTICLE H ACCESSORY USES AND STRUCTURES; FENCES

Section 13-1-160 Accessory Uses or Structures.

- (a) **Building Permit Required for Accessory Buildings.** No owner shall, within the Town of Cady build, construct, and use or place any type of non-agricultural accessory building until a permit shall have first been obtained from the Building Inspector. Application for an accessory building permit shall be made in writing to the Building Inspector. With such application, there shall be submitted a fee(s) pursuant to the Zoning and Building Code(s) and a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved. For purposes of this Section, no regulatory distinction is made between temporary, permanent or movable accessory buildings (such as mounted on skids).
- (b) **Principal Use to be Present.** An accessory use or structure in any non-agricultural zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (c) **Placement Restrictions.** An accessory use or structure may be established subject to the following regulations:
 - (1) **Detached Accessory Buildings in Residential Districts.**
 - a. The standards prescribed in the pertinent residential district shall be complied with.
 - (2) **Standards in Non-Residential Districts.** Accessory uses and detached accessory structures are permitted in the rear and side yards only, provided that:
 - a. They may be located in the street yard on waterfront lots; and
 - b. They may be located in the street yard on lots three hundred (300) feet in depth or greater which are not in platted residential subdivision, but in no case shall they be located closer than one-half (1/2) the depth of the lot to the road right-of-way line.
- (d) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.
- (e) **Use Restrictions - Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.
- (f) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five (5) feet to the side line of the adjacent structure.

Section 13-1-161 through Section 13-1-179 RESERVED FOR FUTURE USE

DRAFT

ARTICLE I MODIFICATIONS

Section 13-1-180 Height Modifications

The District height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

- (a) **Architectural Projections.** Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
- (b) **Special Structure Height Limitations.** Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks are exempt from the height limitations of this Chapter.
- (c) **Essential Services Height Limitations.** Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.

Section 13-1-181 Yards Modifications

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

- (a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line, and must be eight (8) feet or more above ground.
- (b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard (setback requirements), but such projection shall not exceed two (2) feet.
- (c) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

Section 13-1-182 through Section 13-1-199 RESERVED FOR FUTURE USE

ARTICLE J ADMINISTRATION

Section 13-1-200 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Town Board. A Plan Commission is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Section 13-1-201 Zoning Administrator.

- (a) **General Duties.** The Zoning Administrator is hereby designated as the primary administrative officer for the provisions of this Chapter, and shall be referred to as the Zoning Administrator. The Zoning Administrator shall be appointed by resolution of the Town Board. The Town Board may appoint an interim or deputy Zoning Administrator, if needed. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue all permits required by this Chapter. The Zoning Administrator shall further:
- (1) Issue all zoning permits, and make and maintain records.
 - (2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Chapter.
 - (3) Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.
 - (4) Provide and maintain a public information function relative to all matters arising out of this Chapter.
 - (5) Receive, file and forward to the Town Clerk all applications for amendments to this Chapter.
 - (6) Receive, file and forward to the Town Board all applications for conditional uses.
 - (7) Receive, file and forward to the Plan Commission all applications for appeals, variances, or other matters on which the Plan Commission is required to act under this Chapter, and shall attend all Plan Commission meetings to provide technical assistance when requested by the Town Board.
- (b) **Appointment.** The Zoning Administrator shall not be a member of the Town Board and/or the Plan Commission. The Zoning Administrator may be a resident of the Town and/or a consultant with experience in Zoning Administration.

Section 13-1-202 Violations and Penalties

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Town Board, the Zoning Administrator or any property owner who

would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, the Zoning Administrator or the Town Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm, or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in this Code of Ordinances.

Section 13-1-203 Zoning Permits.

- (a) **Requirements.** Applications for a zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator for all development. All applications shall include the following where applicable:
 - (1) **Names and address** of the applicant, owner of the site, architect, professional engineer, and contractor.
 - (2) **Description of the subject site** by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) **Plat of survey** prepared by a registered land surveyor, or where deemed appropriate by the Zoning Administrator, a location sketch drawn to scale. The scale shall not be smaller than 1" = 50'. The plat or sketch shall show the location, boundaries, dimensions, elevations, uses and size of the following:
 - a. Subject site.
 - b. Existing and proposed structures.
 - c. Existing and proposed easements, streets, and other public ways.
 - d. Off-street parking, loading areas, and driveways.
 - e. Existing highway access restrictions.
 - f. Existing and proposed street shore, side, and rear yards.
 - g. The location, elevation and use of any abutting lands and their structures within one hundred fifty (150) feet of the subject premises.In addition, the plat or sketch shall show the location of any shorelands and floodplains which will necessitate that a St. Croix County land use permit be secured.
 - (4) **A copy of any necessary permits** from St. Croix County.
 - (5) **A photocopy of any necessary sanitary permits** secured from St. Croix County.
 - (6) **Proposed water and sanitary plan**, showing the location of any private well, if municipal water service is not available. The site plan shall illustrate sanitary sewer and/or septic systems, including the distance from proposed and existing buildings.
 - (7) **Additional information** as may be required by the Town Board, Plan

Commission, Zoning Administrator, Town Engineer or Planner, Building, Plumbing or Health Inspectors.

- (8) **Fee Receipt.** Zoning permit application fees shall be set by the Town Board, paid to the Town Treasurer and a fee receipt attached to the application.
- (b) **Validity.** A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Chapter shall be null and void.
- (c) **Uses Not Requiring a Zoning Permit.** No zoning permit shall be required for any of the following cases, provided, however that any work not requiring a permit shall comply with the applicable setback, yard, height and other requirements of this Chapter:
- (1) For building an accessory building that is less than one hundred fifty (150) square feet in area.
 - (2) For repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of major structural elements.
 - (3) Permitted uses may be exempt from zoning permits at the discretion of the Zoning Administrator.
 - (4) Zoning permits are required in shoreland and floodplain areas.

Section 13-1-204 Fees.

- (a) **Required Fees.** Required fees under this Chapter shall be paid in full at time of application, plus the cost of any advertising of notices.
- (b) **Liability.** The acceptance of fees as provided herein shall not be deemed an assumption of liability by the Town.

Section 13-1-205 through Section 13-1-219 RESERVED FOR FUTURE USE

ARTICLE K CHANGES AND AMENDMENTS TO THE ZONING CODE

Section 13-1-220 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to adoption by the Town Board.

Section 13-1-221 Initiation of Changes or Amendments.

- (a) **Initiation.** A change or amendment may be initiated by the Town Board or by a petition of one (1) or more of the owners of property within the area proposed to be changed.
- (b) **Petitions.** Petitions for any change to the District boundaries or amendments to the regulations shall be filed with the Town Clerk and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, how the petition is consistent with the Town Comprehensive Plan, specify the proposed use and have attached the following:
 - (1) A plot plan drawn to a scale of one (1) inch equals one hundred (100) feet [one (1) inch =one hundred (100) feet] showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within two hundred (200) feet of the area proposed to be rezoned.
 - (2) The owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 - (3) Additional information required by the Plan Commission and/or Town Board.
 - (4) The filing fee established by the Town Board.
- (c) **Referral to Plan Commission for recommendation.**

The Town Clerk, on behalf of the Town Board, shall forward the petition to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text of this Chapter and/or the Official Zoning Map and provide a recommendation and report regarding whether the petition should be granted as requested, as modified, or denied. The recommendation shall be recorded in the Plan Commission's official minutes.
- (d) **Hearings.**
 - (1) Following receipt of the Plan Commission recommendation, the Town Board shall hold a public hearing to hear and consider each proposed change or amendment, giving notice of the time, place and the change or amendment being proposed, by publication of a Class 2 notice, under Wis. Stat. Chapter 985. At least ten (10) days before the public hearing, written notice shall also be given to the owners of property lying within two hundred (200) feet of the area proposed to be rezoned.
 - (2) The Town Board may delegate to the Plan Commission the responsibility to hold the public hearing required under this Subsection.
- (e) **Town Board Action.** Following such hearing and after considering the Plan

Commission's recommendation, and reviewing all proposed changes and amendments, the Town Board shall vote on the proposed Official Zoning Map Change or Chapter text amendment.

- (f) **County Board Action.** Any amendment of the Town Zoning Ordinance by the Town Board shall be subject to County Board approval as provided in Wisconsin Statutes.

Section 13-1-222 Protest.

- (a) In the event of a written protest against a proposed amendment to this zoning ordinance duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) 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 favorable vote of three-fourths (3/4) of the full Town Board membership.

Section 13-1-223 through Section 13-1-239 RESERVED FOR FUTURE USE

ARTICLE L BOARD OF APPEALS

Section 13-1-240 Authorization and Composition.

- (a) The Town Chair exercising village powers under Wis. Stats. 60.10(2)(c), shall appoint under authority of Wis. Stats. 61.35 and 62.23, a Board of Appeals consisting of five members and two alternates, who shall vote only in the absence of regular members or when a member refuses to vote because of a conflict of interest. Members shall serve for terms of three years, except those first appointed shall serve staggered terms as follows: one member for one year, two members for two years, and three members for three years.
- (b) All appointments shall be subject to confirmation by the Town Board.
- (c) The Town Chair shall designate one member as Chairperson.
- (d) Members shall serve without compensation, shall reside within the Town of Cady, and shall be removable by the Town Chair for cause upon written charges and after public hearing.

Section 13-1-241 Procedural Rules.

- (a) The Board of Appeals shall select its own vice chair and meet at the call of the chair, vice chair or at such other times as the Board of Appeals may determine, at a fixed time and place.
- (b) All meetings of the Board of Appeals shall be open to the public, except as otherwise provided by Wisconsin law.
- (c) The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and the Town Clerk as a public record.
- (d) In the case of all appeals, the Board of Appeals shall solicit and weigh information and comments from the Town Board, Plan Commission, and Zoning Administrator.
- (e) If a quorum is present, the Board of Appeals may take action by a majority vote of the members present.

Section 13-1-242 Powers.

In addition to the powers enumerated in this Ordinance, the Board of Appeals shall have the following powers:

- (a) Adopt such rules as it considers desirable for the conduct of business, subject to the provisions of this Section and relevant State Statutes.
- (b) Grant variances subject to Article L.

- (c) If, after hearing the evidence, the Board of Appeals makes a finding that there was an error, the Board of Appeals may order the error corrected.
- (d) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator, Town Board or other Town administrative official(s) in the enforcement or administration of this Ordinance.
 - (1) Town Board decision regarding Land Use Permit shall be considered an administrative decision and appealable to the Board of Appeals.
 - (2) Town Board decision on a Conditional Use Permit application shall be considered legislative and not appealable to the Board of Appeals, but directly to the St. Croix Circuit Court.
 - (3) All appeals to the Board of Appeals shall be governed by Section 13-1-243 of this Ordinance.

Section 13-1-243 Appeals.

- (a) Appeals from Actions of Administrative Officials.
 - (1) Appeals to the Board of Appeals may be taken by any person aggrieved or by the officer, department, board, commission, or committee of the Town affected by the decision of the Zoning Administrator or the Town Board, with respect to its decision on a Land Use Permit.
 - (2) Such appeal shall be taken within thirty days, as provided by the rules of the Board of Appeals, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof.
 - (3) The officer from whom the appeal is taken shall immediately transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- (b) Stay Appeals from Administrative Actions.
 - (1) An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after notice of appeal shall have been filed with him/her, that by reason of the facts stated in the certificate a stay would in his/her opinion, cause imminent peril to life and property.
 - (2) In such cases, proceedings shall not be stayed otherwise than by restraining order from the Board of Appeals or a court of law.
- (c) Hearing.
 - (1) Upon the filing with the Board of Appeals of an appeal from a decision of the Zoning Administrator or Town Board, an appeal from a determination on an application for a land use permit, or other matters within its powers as set forth above, the Board of Appeals shall hold a public hearing.
 - (2) The Board of Appeals shall fix a reasonable time for the hearing and publish a Class 2 notice under Wis Stats. 985, as well as providing notice by mail to all the parties in interest, including adjacent landowners.
 - (3) When the matter concerns shoreland or floodplain regulations, the Board of Appeals shall submit to the St. Croix County Zoning Administrator, a copy of the notice and application for the proposed variance sufficiently in advance so that the County will receive at least ten days notice of the hearing.
 - (4) At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record.

- (d) Decision.
- (1) The Board of Appeals shall make a decision based on such appeal within thirty days following the public hearing on the matter.
 - (2) In passing upon an appeal the Board of Appeals may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and it shall make its decision in writing setting forth the findings of fact and the reasons for its decision.
 - (3) A copy of all decisions granting variances affecting any provision of the shoreland of floodplain regulations shall be forwarded to St. Croix County within ten days of such action.

Section 13-1-244 Variances.

(a) **Purpose.**

- (1) A request for a variance may be made to the Board of Appeals when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
- (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Definitions**

- (1) **Area Variance:** Area variance means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk or density restriction for a structure that is granted by the Board of Appeals under this Section.
- (2) **Use Variance:** Use variance means an authorization by the Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(c) **Variance Exception - Livestock Siting Facilities.**

- (1) The Town is not authorized, through its Board of Appeals, by state law to grant a variance from State of Wisconsin requirements related to livestock facility siting, except as provided in Section 93.90, Wis. Stats., and ATCP 51, Wis. Adm. Code.
 - (2) Upon a showing of legal hardship under this Article, the Board of Appeals may reduce certain setbacks in the AG-1 and AG-2 districts, but no lower than:
 - a. One hundred and twenty-five (125) foot setbacks to road right-of-ways.
 - b. One hundred and seventy-five (175) foot setbacks to property lines.
 - c. Three hundred and twenty-five (325) foot setbacks for new manure storage structures.
- (d) **Application for Variances.** The application for variance shall be filed with the Town Clerk. Applications may be made by the owner of the structure, land or water to be affected. The application shall contain the following information:
- (1) Name and address of applicant and all abutting and opposite property owners of record.
 - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (3) Address and legal description of the property.
 - (4) A to-scale drawing showing the boundaries and location of the property, the location and dimensions of all buildings and structures, slopes, public and private roads crossing or contiguous to the property and the location of and distance to the nearest residences in all directions.
 - (5) Additional information required by the Town Clerk, Town Engineer, Board of Appeals, and/or Zoning Administrator.
 - (6) Fee in the amount set by the Town Board.

(e) **Burden of Proof.**

A property owner applying for a variance bears the burden of proving “unnecessary hardship”.

For an Area Variance, the property owner must demonstrate that strict compliance with the zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

For a Use Variance, the property owner must demonstrate that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.

In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

- (f) **Public Hearing on Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variance. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the Town, or be legally posted, and shall give due notice to the parties in interest and adjacent

property owners within three hundred (300) feet, the Zoning Administrator and the Town Board not less than seven (7) days before the hearing. At the hearing the appellant or applicant shall appear in person, by agent or by attorney. The Board of Appeals shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator and Town Board.

- (g) **Action of the Board of Appeals.** For the Board of Appeals to grant a variance, it must find that:
- (1) Denial of variance may result in the applicable unnecessary hardship to the property owner. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
 - (2) The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought and is not self-created.
 - (3) that such variance is necessary for the preservation and enjoyment of substantial property rights, will do substantial justice and secure public safety and welfare and is consistent with the intent and purpose of the regulations in this Ordinance from which relief is being sought
 - (4) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
 - (5) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (6) The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code and will not enlarge any pre-existing non-conformity with this Ordinance.
 - (7) The proposed variance is not contrary to the public interest. In applying this test, the Board of Appeals must consider the impacts of the variance proposal, and, if setting a precedent, the cumulative impacts of similar projects on the interests of the neighbors, the overall Town of Cady and the general public. Such factors are generally identified in Section 13-1-4.
- (h) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

Section 13-1-245 Review by Court of Record.

Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may, within thirty (30) days after the filing of the decision in the office of the board of appeals, commence an action in circuit court seeking the remedy available by certiorari and related remedies as provided by Wisconsin law.

Section 13-1-245 through Section 13-1-259 RESERVED FOR FUTURE USE

ARTICLE M DEFINITIONS

Section 13-1-260 Definitions.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive. The word "person" includes individuals, all partnerships, associations, and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".

Abutting. Have a common property line or district line, or are separated only by a river, stream, or transportation or utility right-of-way.

Accessory Apartment. A separate complete housekeeping unit that is substantially contained within the structure of a single-family dwelling, but can be isolated from it.

Accessory Building or Structure. A subordinate structure, the use of which is reasonably incidental to, customarily found in connection with, and located on the same lot as the principal structure or use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, swimming pools, hot tubs, fences, retaining walls and detached stairways and lifts; and impervious, pervious or porous driveways, parking lots, sidewalks, patios and decks (both detached and attached).

Accessory Use. See "Use, Accessory".

Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within forty-three thousand five hundred sixty (43,560) square feet.

Adjacent Property Owner. The owner of property located within three hundred (300) feet of a subject property under this Code.

Adult-Oriented Establishment. Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

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

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

on the land; or

a. A parent or child of the owner of the farm.

Agricultural Processing and Packaging. An establishment primarily engaged in refining, processing or otherwise adding value to raw agricultural goods, including, but not limited to, washing, sorting, cutting, bagging, freezing, canning, packing, bottling or butchering.

Agricultural Related Uses. 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.
- b. Any other use that the department, by rule, identifies as an agriculture-related use.

Agricultural Research and Development. The use of land or buildings for agriculture research and the cultivation of new agricultural products.

Agricultural Sales and Service. An establishment primarily engaged in:

- a. The sale or rental of farm tools and implements, feed and grain, tack, animal care products, farm supplies and the like; or
- b. Performing agricultural or horticultural services on a fee or contract basis, including, but not limited to, crop dusting and spraying services, harvesting and plowing services, agricultural land grading services, farm equipment service and repair, and large animal veterinary services.

Agricultural Storage. Grain elevators and other facilities for the warehousing and storage of agricultural products.

Agricultural Use.

- a. Any of the following activities conducted for the purpose of producing an income or livelihood:
 1. Crop or forage production.
 2. Keeping livestock.
 3. Beekeeping.
 4. Nursery, sod, or Christmas tree production.
 5. Floriculture.
 6. Aquaculture.
 7. Fur farming.
 8. Forest management.
 9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- b. Any other use that the department, by rule, identifies as an agricultural use.

Animal Waste Utilization. The application of animal waste on suitable land in a manner which will achieve compliance with livestock performance standards and prohibitions established in Ch. NR 15 I, Wis. Adm. Code, NRCS Conservation Practice Standard Code 590 and meet other designated water quality objectives. Land suitable for animal waste utilization excludes wetlands or lands below the OHWM, closed depressions, slopes in excess of twenty-five percent (25%) and other areas that may be determined as sensitive and adversely affecting surface water or groundwater quality.

Antenna. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include an omni-directional antenna (rod), a directional antenna (panel) or a parabolic antenna (dish).

Apartment. A suite of rooms or a room in a multiple dwelling, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals, with separate facilities and utilities which

are used or intended to be used for living, sleeping, cooking and eating.

Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

Authority. A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.

Basement. A story partly or wholly underground. The height of a basement shall be the vertical distance between the surface of the basement floor and the surface of the floor next above it. A basement shall be counted as a story for the purposes of height measurements if the vertical distance between the ceiling and the main level of the adjoining ground is more than five (5) feet, or if used for business purposes, or if used for living purposes by other than the owner and his immediate family, and a janitor or servants of the owner.

Bed and Breakfast Establishment Building. A building that provides ten (10) or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner's personal residence and occupied by the owner at the time of rental. The partnership form of ownership shall be allowed under this definition.

Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding ten (10) persons and not open to transient customers.

Boathouse. A building or portion thereof used for the housing or care of boats and other associated marine equipment for noncommercial purposes and not permitted to be used for human habitation.

Buffer Zone. A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other plantings is usually employed in such a designated area.

Buildable Lot Area. The portion of a lot remaining after required yards and other ordinance requirements have been provided. This term is interchangeable with "Acre, Net".

Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

Building, Alterations of. Any change or rearrangement of the supporting members such as bearing walls, beams, columns or girders of a building, an addition to a building, or movement of a building from one location to another.

Building Area. The total area bounded by the exterior walls of a building at the floor levels, but not including basements, utility rooms, garages, porches, breezeways and unfinished attics.

Building, Detached. A building surrounded by open space on the same lot.

Building, Front Line of. A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.

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

Building, Principal or Main. The building on a lot in which is conducted the

principal use as permitted on such lot by the regulations of the district in which it is located.

Building Setback Line. The minimum horizontal distance established by zoning district between the lot line and the nearest point of the foundation of that portion of the building to enclose. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated for by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps and handicapped ramps shall not be included in measuring the setback. [See also Section 13-1-2l(a)(8).]

Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

Camouflage Design. A wireless communication service facility that is disguised, hidden or screened, but remains recognizable as a tower or antenna.

Campground. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

Camping Unit. Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping or travel trailer, motor home, bus, van, pickup truck, tent or other mobile recreational vehicle.

Canopy. A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain or snow.

Carport. An automobile shelter having one (1) or more sides open.

Centerline. A line connecting the points on highways from which highway setback distances shall be measured, at any point on the highway, unless otherwise stated in this ordinance.

Certificate of Compliance. A certification that the construction and the use of land or building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.

Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

Clinic, Medical or Dental. A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.

Club or Lodge. A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.

Cluster Subdivision. A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent undeveloped land.

Complete Application for Local Approval - Livestock Facilities Conditional Use. An application that contains everything required under ATCP 51.30(1)-(4), Wis. Adm. Code.

Common Wall. A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

Community Living Arrangement. The following facilities licensed or operated or

permitted under the authority of the Wisconsin Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

Conditional Use. The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning district, which for their respective conduct, exercise or performance in such designated districts may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, condition modification, or regulations in such district for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the Town and, therefore, may be permitted in such district only by a conditional use permit, issued after review, public hearing and recommendation by the Plan Commission and after the Town Board, under conditions specified in this Chapter, has determined that the applicable conditions specified in this Chapter have been met and has created an additional site or operation-specific conditions as are necessary for public and neighborhood health, safety, and welfare.

Conforming Use. Any lawful use of a building or lot which complies with the provisions of this Chapter.

Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for St. Croix County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

Court. An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.

Crawlways or Crawl Space. An enclosed area below the first usable floor of a building, general less than five (5) feet in height, used for omitted access to plumbing and electrical utilities.

Curb Break. Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.

Curb Level. The level of the established curb in the front of the building measured at the center of such front.

Day Care Center, Family. A place or home which provides care for up to eight (8) children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Section 48.65, Wis. Stats.

Day Care Center, Group. A dwelling or center that provides care and supervision for nine (9) or more children and is licensed by the Wisconsin Department of Health and Social Services.

Deck. An unenclosed exterior structure that has no roof or sides, but has a permeable floor that allows the infiltration of precipitation.

Department of Agriculture, Trade, and Consumer Protection (DATCP). DATCP is a governmental agency of the U.S. state of Wisconsin responsible for regulating agriculture, trade, and commercial activity in the state. The department is administered by a secretary who is appointed by the governor and confirmed by the Senate. The department is directed and supervised by a nine-member Board of Agriculture, Trade and Consumer Protection.

Development. Any artificial or man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Development Regulations. The part of a zoning ordinance enacted under Section 62.23(7), Wis. Stats., that applies to elements including setback, height, lot coverage, and side yard. [See Section 62.23(7) (b) a, Wis. Stats.]

Disabled. Having a physical or mental impairment that substantially limits one or more major life activities.

District, Basic. A part or parts of the Town for which the regulations of this Chapter governing the use and location of land and building are uniform.

District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the stricter of the conflicting requirements shall apply.

Double Wide Mobile Home. A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement. Modular homes are included in this definition.

Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.

Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

Dwelling Unit. A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.

Elderly Day Care Home. Locations which provide day care and food service for adults who are unable to be left alone while other family members are at work or otherwise not at home during the day. Overnight lodging is not to be provided at a day care center.

Emergency Shelters. Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.

Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

Expansion. An addition to an existing structure regardless of whether the addition is vertical or horizontal or both.

Expansion of Livestock Facility. The entire livestock facility that is created by the expansion after May 1, 2006, and includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered. An increase in the largest number of animal units kept at a livestock facility on at least ninety (90) days in any twelve (12) month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities for at least ninety (90) days in any twelve (12) month period.

Family. One (1) or more persons immediately related by blood, marriage, adoption or guardianship and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family, or not to exceed more than four (4) persons if not related by blood, marriage, adoption or guardianship. A person shall be considered to be related for the purpose of this Chapter if he/she is dwelling for the purpose of adoption or for a foster care program.

Farm. Means all land under common ownership that is primarily devoted to agricultural use.

Farm Animals. See "Livestock".

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

- a) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following: 1) an owner or operator of the farm; 2) A parent or child of an owner or operator of the farm; 3) An individual who earns more than 50 percent of his or her gross income from the farm.
- b) A migrant labor camp that is certified under s. 103.92.

Fence, Open. A fence classified as an acceptable farm line fence under Ch. 90, Wis. Stats.

Floor Area - Dwelling Units. The square feet of floor space of the several floors of a dwelling unit within the outside line of walls and includes the total of all space on all floors of a building, but not including porches, balconies, garages or space in a basement or cellar when the same is used for storage or incidental uses. Residential floor area is measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units.

Floor Area - Business and Manufacturing Buildings. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by 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 determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

Footprint. The land area covered by a structure at ground level, measured on a horizontal plane. The "footprint" of a residence includes attached garages and porches, but excludes decks, patios, carports and roof overhangs.

Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto. [See "Community Living Arrangement".]

Frontage. All the property abutting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.

Garage, Private. An accessory building or space for the storage only of not more than four (4) wheeled, licensed motor vehicles.

Garage - Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

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

Garden Center. A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

Gasoline Station. Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

Gift Stores. Retail stores where items such as art, antiques, jewelry, books and notions are sold.

Grade. When used as a reference point in measuring the height of a building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.

Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under Section 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children. [See "Community Living Arrangement".]

Hardware Stores. Retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.

Home Occupation. Any business or profession carried on primarily by a member of the immediate family residing on the premises, carried on primarily within the principal building thereto and meeting the standards of Section 13-1-93.

Hospital. An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed-patient care.

Hotel. A building in which lodging, with or without meals, is offered to transient

guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, and glass, building materials, household appliances, brush, wood and lumber.

Junkyard. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including but not limited to used or salvaged or new scrapped base metal or metals, their compounds or combinations, used for salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property, except animal matter; and used motor vehicles, machinery or equipment which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Kennel. Any facility where dogs or cats are kept for twenty-four (24) hours or more for boarding, training, or similar purposes for compensation, except that "kennel" does not include any of the following:

- a. An animal shelter.
- b. A facility owned or operated by a veterinarian licensed under Ch. 453, Wis. Stats., where animals are boarded only in conjunction with the provision of veterinary care.

Livestock. Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

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

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

Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

Lot Area. The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

Lot, Corner. A lot situated at the intersection of two (2) streets.

Lot, Interior. A lot with frontage on only one (1) street.

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.

Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking area, or other open space provisions of this Chapter.

Lot, Through. A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

Lot Depth. The shortest horizontal distance between the front lot line and the rear lot line measured at a ninety (90) degree angle from the road right-of-way.

Lot Line. Legally established lines dividing one (1) lot, plot of land or parcel of land from an adjoining lot or plot of land or parcel of land as defined herein.

Lot Line, Front. A line separating the lot from the street or approved private road.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in the length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any lot boundary line not a front line or a rear lot line.

Lot of Record. A lot which has been recorded in the Office of the Register of Deeds prior to the effective date of this Chapter.

Lot Width. The horizontal distance between the side lot lines at the building setback line.

Machine Shops. Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.

Marquee or Canopy. A roof-like structure of a permanent nature which projects from the wall of a building.

Manufactured Home. A structure that is designed to be used as a dwelling with or without a permanent foundation, is fabricated in an off-site manufacturing facility for installation at the building site and is certified by the federal Department of Housing and Urban Development and labeled as a manufactured home under 42 USC Secs. 5401-5425, which, when placed on the site also meets the following criteria:

- a. Is set on an enclosed foundation in accordance with Section 70.43(1), Wis. Stats., and SPS 321, Subchapters III, IV and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- b. Is installed in accordance with the manufacturer's instructions;
- c. Is properly connected to utilities;
- d. Has an area of at least eight hundred (800) square feet of living space, with a minimum of twenty-four (24) square feet in width in its smallest horizontal dimension, exclusive of attached garage, carport or open deck, and is used exclusively as a single-family residence; and
- e. Meets other applicable standards of this Chapter.

Manufactured Home Community. Any plot or plots of ground upon which three (3) or more manufactured homes that are occupied for dwelling or sleeping purposes are located. "Manufactured home community" does not include a farm where the

occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

Manure Pit. A structure or earthen pond located outside of a barn or shelter and used for containment of manure and other wastes from livestock and poultry.

Mini-Storage/Warehouse Structure. A structure where self-contained sections thereof are rented for storage purposes, typically serving residential and small business clients.

Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.

Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of forty-five (45) feet. For purposes of this Chapter, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above.

Note: Mobile Homes vs. Modular Homes

"Mobile homes" have been required to follow construction standards, including heating, electrical and plumbing, since 1976 through a Federal Housing and Urban Development (HUD) program. In Wisconsin this is administered under contract by the Division of Safety and Buildings, Wisconsin Department of Safety and Professional Services. The current proper and legal term for mobile homes is "manufactured homes". While the manufactured home itself is not covered by the Wisconsin Uniform Dwelling Code (UDC), any site-built addition to that home, such as a basement, crawl space or room addition attached to the home, does have to be constructed to meet the requirements of the UDC if the manufactured home was built after June 1, 1980.

While manufactured homes are constructed to the HUD construction standards, "manufactured dwellings" must meet the UDC standards. Such non-HUD factory-built homes are referred to as "manufactured dwellings". However, double-wide manufactured mobile homes often are similar in appearance to modular homes. For purposes of identification, a manufactured (mobile) home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This indicates the home has been constructed in accordance with the HUD manufactured home standards. In contrast, a modular home or manufactured dwelling will be identified with a reel plastic sticker, called a "Wisconsin Insignia", imprinted with the outline of the State of Wisconsin. It will usually be affixed to the electrical panel, vanity base cabinet or kitchen cabinet. Inspectors must first identify what they are looking at before applying the

applicable code regulations.

Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation, and where individual lots are rented to individual mobile home users. A mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation and including any associated service, storage, recreations and other community service facilities designed for the exclusive use of park occupants.

Mobile Home Subdivision. A land subdivision, as defined by Ch. 236, Wis. Stats., and any Town Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.

Modular Home. A prefabricated, detached single- or double-family dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be transported and mounted on a permanent foundation.

Motel. A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.

Motor Freight Terminal. A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

Navigable Waters. Has the meaning in Section 30.01(4m), Wis. Stats.

New Livestock Facility. A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least five (5) years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding five (5) years.

Nonconforming Lot. A lot of record existing on the date of passage of this Chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure. A dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform to one (1) or more of the development regulations in the current zoning ordinance. [See Section 62.23(7) (hb) b, Wis. Stats.]

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. [See Section 62.23(7)(ab), Wis. Stats.]

Nonmetallic Mining. Operations or activities for the extraction from the earth for the sale or use by the operator of mineral aggregates or nonmetallic minerals such as stone, sand, gravel, asbestos, beryl, clay, feldspar, peat, talc, topsoil, including such operations or activities such as excavation, grading, and dredging.

Nuisance. An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience or damage.

Nursery. Any building or lot, or portion thereof, used for the cultivation or growing

of plants and including all accessory buildings.

Nursing Home. Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.

Operator. A person who applies for or holds a local approval for a livestock facility.

Ordinary Maintenance and Repair. Any work done on a nonconforming structure that does not constitute expansion, structural alteration or reconstruction and does not involve the replacement, alteration or improvement of any portion of the structure's foundation.

Other Official Approved Access. A private road or easement extending from a private property to a component of the public street system which the Town Board has approved as a primary means of access.

Outlot. A lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

Parking Lot. An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

Person. An individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

Places of Assembly. Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planned Unit Development. A large lot or tract of land containing two (2) or more principal buildings of uses developed as a unit where such buildings or uses may be located in relation to each other rather than to a lot line or zoning district boundaries.

Populate (Animals). To add animal units for which a permit or other local approval is required.

Porch. A building walkway with a roof over it, providing access to a building entrance.

Private Onsite Wastewater Treatment System (POWTS). A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same lot as the structure. Every POWTS shall comply with the standards of the St. Croix County Sanitary Code.

Private Individual Water System. A system supplying water for human consumption with a well and pump serving a single structure located on the same lot as the structure. This term includes alternative water supply systems, substitutes for the well or pump, a system serving more than one (1) structure or a system located on a different parcel than the structure.

Professional Home Offices. Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, tradesmen, authors, musicians or other recognized professions used to conduct their professions. Tradesmen shall be defined as a person or persons who hold

themselves out with a particular skill including, but not limited to, carpenters, masons, plumbers, electricians, roofers and others involved in the building trade.

Property Line. A line that separates parcels of land owned by different persons.

Qualified Nutrient Management Planner. A person qualified under ATCP 50.48, Wis. Adm. Code.

Quarrying. The removal of mineral aggregates, topsoil or other natural materials from the earth by excavating, stripping or any other mining process.

Racetrack. A facility or track operated where vehicles of any type competitively race, whether for compensation or not.

Railroad Right-of-Way. A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

Reasonable Accommodation. Allowing a disabled person to deviate from the strict requirements of the Town's zoning ordinances if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

Recreational Vehicle. Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

- a. Is not used as the permanent residence of the owner or occupant;
- b. Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
- c. Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;

Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations. Manufactured or mobile homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "recreational vehicles". The term "recreational vehicle" does not include a temporarily placed "manufactured" or "mobile" home.

Recreational Vehicle Camp. A part, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.

Recycling Center. A facility designed to be a collection point where only recyclable materials are sorted and temporarily stored prior to shipment to others who will use those materials for reuse and/or processing into new products. This shall not include junk yards.

Related Livestock Facilities. Livestock facilities that are owned or managed by the same person, and related to each other in at least one (1) of the following ways:

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

Restaurant. A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers

seated in the dining room.

Restaurant, Drive-in. A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.

Retail. The sale of goods or merchandise in small quantities to the consumer.

Roadside Stand. A building or part of a building no more than five hundred (500) square feet used for the retail sale of agricultural and related incidental products, excluding livestock, produced on the farm where the stand is located. There shall be no more than one (1) such stand on any one premises.

Sanitary Landfill. A land disposal facility where solid waste is disposed on land by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to its smallest practical volume, and to cover it with a layer of earth or other approved material as required.

School, Private. An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.

School, Commercial. A school limited to special instruction such as business, art, music trades, handicraft, dancing or riding.

Seat. Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.

Separate Species Facility. A livestock facility that meets all of the following criteria:

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

Setback. See "Building Setback Line."

Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product

and which is visible from any public street or highway.

Site Plan. Includes but is not limited to a drawing to scale of not less than one (1) inch equals fifty (50) feet, showing all physical aspects such as buildings, setback dimensions, sidewalks, driveways, playgrounds, parking, and so forth which pertain to the proposed development and its relation to the surrounding area in conformance to the zoning of the area in which the development will exist.

Stable, Commercial. A horse boarding building or land where horses are kept for remuneration, hire, sale, boarding, riding or show.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

Street. A public or private thoroughfare which affords the principal means of access to abutting property.

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

Structural Component. Any part of the framework of a building or other structure. The structural components of a building's exterior walls include the vertical studs, top and bottom plates, and window and doorsills and headers. A structural component may be non-loadbearing, such as the framework of a wall at the gable end of a one-story house. Wall coverings, such as siding on the exterior and dry wall on the interior, are not included in the definition of structural component.

Structural Erosion Control Measure. A retaining wall or other man-made structure whose primary function is to control erosion.

Structure. Any man-made object with form, shape and utility, that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a river bed, stream bed or lake bed or upon another structure. Structure includes swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork such as graded areas, filled areas, ditches, berms or earthen terraces. Structure does not include small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, bird feeders, birdhouses and birdbaths.

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

Temporary Uses. See "Use, Temporary".

Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

Tent or Hoop-Supported Structure. Any structure, building, enclosure, canopy, or tent top, with or without full sidewalls, temporary or permanent, primarily

constructed of a frame of any material covered by a fabric of natural or synthetic material, whether opaque, translucent, or transparent, but does not include:

- a. Family or individual camping tents used by the resident of the lot and the resident's non-paying guests for camping activities.
- b. Party tents or canopies erected for a party or event.
- c. Screen tents or picnic canopies of the type usually used to shelter a family picnic table or outdoor furniture.

Transmission Services. Electric power lines, telephone and telegraph lines, communication towers, cables, sewage lift stations, sewer and water pipes, and other pipes, conduits and accessory structures that are used to transport power, convey information or transport material between two (2) points, other than wireless communication service facilities.

Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

Use, Accessory. A use subordinate to and serving the principal use on the same lot and customarily incidental thereto. It must also be subordinate in area, extent or purpose to the principal building or use served. Accessory uses include, but are not limited to, family daycare, home occupations, and seasonal roadside stands.

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

Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.

Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

Utility Building or Structure. An accessory building used for storage of gardening or home-related supplies of limited size as permitted in the use district.

Utility Room. A room or area in the home used for the mechanicals of the home (furnace, water heater, water softener).

Value Added Agriculture. A small commercial, manufacturing or service operation, which is accessory to an agricultural use. Examples of value added agriculture include, but are not limited to, small scale food processing, handcrafting, agriculture-related product packaging and marketing, and agricultural tourism. These farm-based activities cannot exceed a certain size and scale, but may involve new structures. Additional permits and licenses may be required to carry on these activities.

Variance. A relaxation of the terms of this Chapter by the Plan Commission where the literal enforcement of this Chapter would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.

Vehicle, Motor. Every device in, upon or by which any person or property is or may be transported.

Vending Machine. A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.

Vision Setback Area or Vision Clearance Triangle. An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from this intersection as specified in this Chapter.

Wall, Retaining. A structure designed to resist the lateral displacement of soil or other materials.

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

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

WPDES Permit. A Wisconsin pollutant discharge elimination permit issued by the Wisconsin Department of Natural Resources under NR 243, Wis. Adm. Code.

Yard. An open space on the same lot with a building, unobstructed by structures except as otherwise provided herein.

Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the principal building excluding uncovered steps. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

Yard, Rear. A yard extending the full width of the lot between the rear lot lines to the nearest part of the principal building.

Yard, Side. A yard on each side of the principal building extending from the building to the lot line and from the front yard line to the rear yard line.

Yard, Street. Yard abutting a street.

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.

Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

Zoning Permit. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.