

## **ARTICLE A: INTRODUCTION**

### **Sec. 13-1-1 Authority**

The provisions of this Ordinance are adopted by the Town of Empire pursuant to the authority granted by Sections 60.62, 61.35 and 62.23(7), Wisconsin Statutes. The Board of Supervisors of the Town of Empire, Fond du Lac County, Wisconsin does Ordain as follows:

### **Sec. 13-1-2 Title**

This Ordinance shall be known as, referred to or cited as the "Town of Empire Zoning Ordinance".

### **Sec. 13-1-3 Purpose and Intent**

This Ordinance is adopted for the following purposes:

- To promote and protect the public health, safety, morals, comfort, convenience and general welfare;
- To minimize congestion in the public rights-of-way, promote safety from natural and man-made disasters, provide for adequate light and air, and avoid undue concentration of population;
- To facilitate the adequate, efficient and cost-effective provision of public services and facilities;
- To encourage the use of lands and natural resources in accordance with their character and adaptability by utilizing special land features, such as slope, topography, soils, vegetation, wetland areas and wildlife;
- To conserve the natural scenic beauty and attractiveness of the Town, and to enhance the aesthetic desirability of the environment;
- To divide the Town into districts within which the location, sizes and uses of buildings and minimum open spaces shall be regulated;
- To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified districts;
- To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this Ordinance;
- To provide for the compatible and appropriate use of land throughout the Town;
- To provide for the administration of this Ordinance and its amendments;
- To define the powers and duties of the officers and bodies charged to administer this Ordinance; and
- To describe penalties for the violation of provisions of this Ordinance or any of its amendments.

### **Sec. 13-1-4 Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing private easements, covenants, deed restrictions or agreements, nor any ordinances, rules, regulations or permits previously adopted or issued pursuant to law except as provided in Sec. 13-1-7. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

### **Sec. 13-1-5 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Town of Empire and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**Sec. 13-1-6 Severability**

If any provision of this Ordinance held to be invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

**Sec. 13-1-7 Amendment/Repeal**

The Town of Empire Zoning Ordinance, adopted November 9, 1984 is amended by this enactment. All ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

**Sec. 13-1-8 Effective Date**

This Ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

**Sec. 13-1-9 Reserved for Future Use**

**ARTICLE B: GENERAL PROVISIONS**

**Sec. 13-1-10 Establishment of Districts**

For the purposes of this Ordinance, the Town of Empire is divided into six (6) zoning districts, designated as follows:

- Exclusive Agricultural District (EAU)
- Agricultural Transition District (AT)
- General Agriculture District (A-1)
- Residential District (R-1)
- Business District (BD)
- Industrial District (ID)

**Sec. 13-1-11 Zoning Map**

The boundaries of the zoning districts enumerated in Sec. 13-1-10 are hereby established as shown on the “Official Zoning Map of the Town of Empire, Fond du Lac County,” adopted and incorporated herewith by reference. The Official Zoning Map shall be on file and available for public inspection at the office of the Town Clerk, Town of Empire. The Official Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

**Sec. 13-1-12 Interpretation of District Boundaries**

When uncertainty arises concerning the boundaries of the zoning districts, the following rules shall apply:

1. Where district boundaries are depicted as approximately following the center lines of streets, highways, or road right-of-way lines, or center lines of streams or drainage ways, such center lines shall be constructed to be such boundaries.
2. Where district boundaries are depicted as approximately following lot lines, such lot lines shall be constructed to be such boundaries.
3. Where district boundaries are depicted as running parallel to center lines of streets, highways or road right-of-way lines, such parallel lines shall be constructed to be such boundaries at a distance from the center lines that fulfills the intent of drawing such lines.

4. Where boundaries do not follow property lines and distances are not specified, boundaries shall be interpreted by the decision-making body.

#### **Sec. 13-1-13 Relationship to County Zoning Ordinances**

Where lands within the Town of Empire are also subject to Fond du Lac County zoning regulations including, but not limited to shoreland, wetland and floodplain zoning, the most restrictive regulations shall be applied.

#### **Sec. 13-1-14 Uses Regulated**

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not particularly specified in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.

#### **Sec. 13-1-15 Lot Size**

No lot shall be reduced in size such that the lot no longer complies with the minimum lot size requirements specified for the district in which it is located.

#### **Sec. 13-1-16 Height Requirements; Exceptions**

No structure shall hereafter be constructed or altered in such a way that it does not comply with the height, bulk, yard or setback requirements specified for the district in which it is located.

1. **Height Exceptions for Specific Buildings.** Churches, schools, hospitals and other public and quasi-public buildings may be erected to a maximum height of sixty (60) feet, provided that the front, side and rear yards required in the applicable district are each increased at least one foot for each additional foot of building height above the maximum height otherwise applicable in the district.
2. **Height Exceptions; Other Structures.** Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, ornamental towers, spires, masts, accessory structures and improvements consistent with agricultural uses, power transmission poles and lines, and towers other than those regulated by Sec. 13-1-41 are excepted from the height requirements of this Ordinance.

#### **Sec. 13-1-17 Area and Bulk Requirements; Exceptions**

The minimum size of a residential structure shall be one thousand, two-hundred (1,200) square feet of living area. No part of a yard or other open space required in connection with any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building. No accessory structure, or portion thereof, shall be erected or extended into a required yard except as allowed by Sec. 13-1-51, Accessory Uses and Structures. No principal structure, or portion thereof, shall be erected or extended into a required yard except for the following:

1. Fire Escapes. Open or enclosed fire escapes may project into a required yard not more than five (5) feet.
2. Customary Architectural Features. Cornices, belt coursed and other ornamental features may project into a required yard not more than one foot.
3. Bus Shelters. Bus shelters may be located within a required yard, so long as no portion of the structure is located within a road right-of-way.

**Sec. 13-1-18 One Principal Structure Permitted Per Lot**

No more than one principal structure shall occupy a single lot, except where a lot or tract is used for public, institutional, commercial or industrial purposes, or as provided in the EAU and AT Districts. In such cases, all buildings shall conform to all yard/setback requirements around the lot specified for the district in which the lot is located.

**Sec. 13-1-19 Frontage Requirements**

All lots shall have a minimum fifty (50) foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for construction of any principal structure the lot must comply with the minimum lot width requirements specified for the applicable zoning district.

**Sec. 13-1-20 Dedicated Roadway**

No permits shall be issued for a lot that abuts a public roadway dedicated to only a portion of its proposed width.

**Sec. 13-1-21 Lots Abutting More Restrictive Districts**

Except for lots in R-1 District, lots abutting districts with more restrictive (i.e. greater) side yard requirements shall provide side yards no less than that required in the more restrictive district.

**Sec. 13-1-22 Mobile Structures Prohibited**

Except as provided in Sec. 13-1-40 for mobile homes, mobile structures or other vehicles for human occupancy are prohibited as principal or accessory structures or uses in all districts except as temporary offices for contractors on a construction site.

**Sec. 13-1-23 Site Regulations**

1. **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving the natural patterns of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1 ½) horizontal to one (1) vertical, within a distance of twenty (feet) from the property line, or which would alter existing drainage pattern to adversely impact abutting properties except with the written consent of the owner of the affected properties and with the approval of the appropriate decision-making body. All slopes shall be protected against erosion, and in no case shall any slope exceed the normal angle of slippage of the material involved.
2. **Public Sanitary Sewerage and Private Sewage Disposal Systems.** When a proposed use requires sanitary facilities and public sanitary sewer facilities are available to the lot, the applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to the lot. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of Fond du Lac County and any applicable sanitary district. Private holding tanks are expressly prohibited as disposal systems for new construction.
3. **Water Supply Facilities.** When a proposed use requires potable water and public water supply facilities are available to the lot, the applicant shall construct water supply facilities in such a manner as to make adequate public water service available to the lot. When it is proposed to establish a private water supply system to serve the lot, the applicant shall construct water supply facilities to conform to all applicable regulations of the appropriate governing jurisdictions.

**Sec. 13-1-24 through Sec. 13-1-29 Reserved for Future Use**

**ARTICLE C: DISTRICT REGULATIONS**

**Sec. 13-1-30 Exclusive Agricultural Use (EAU) District**

1. **Purpose.** The Town recognizes the importance of preserving prime agricultural lands for productive agricultural purposes. The specific purposes of the Exclusive Agricultural Use (EAU) District are to:
  - a. Preserve productive agricultural land for food and fiber production;
  - b. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs;
  - c. Maintain a viable agricultural base to support agricultural processing and related service industries;
  - d. Reduce costs of providing services to scattered non-farm uses;
  - e. Pace and shape growth;
  - f. Implement the provisions of the county agricultural plan as adopted and periodically revised; and
  - g. Comply with the provisions of Chapter 91, Wisconsin Statutes (Exclusive Agricultural Zoning) to permit eligible landowners to receive tax credits.
  
2. **Applicability.** The EAU District includes prime agricultural lands historically exhibiting high crop yields, which generally consist of Class I, II, and III soil capability classes established by the United States Department of Agriculture, Natural Resource Conservation Service, and other lands that are integral parts of productive farm operations, all as identified in the Fond du Lac County Agricultural Preservation Plan.
  
3. **Definitions Related to EAU District.**

USES CONSISTENT WITH AGRICULTURAL USES: A “use consistent with agricultural uses” must meet all of the following criteria:

  - a. The activity will not convert land that has been devoted primarily to agricultural use;
  - b. The activity will not limit the surrounding land’s potential for agricultural use;
  - c. The activity will not conflict with agricultural operations on the land subject to a farmland preservation agreement;
  - d. The activity will not conflict with agricultural operations conducted on other properties.
  
4. **Permitted Uses.** The following uses are permitted in the EAU District:
  - a. *Agricultural Uses.* Beekeeping; dairying operations of less than 500 cows, commercial feedlots of less than 500 cattle or 1000 hogs or sheep; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, vegetables or berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831-3836; participating in the milk production termination program under 7 USC 1446.

- b. *Agriculturally-Related Dwellings.* Dwellings that have a use consistent with agricultural use and that are occupied by any of the following:
    - i. An owner of the parcel;
    - ii. A person who, or a family at least one adult member of which, earns the majority of his or her gross income from conducting the farm operations on the parcel;
    - iii. A parent or child of an owner who conducts the majority of the farm operations on the parcel;
    - iv. A parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel.
  
  - c. *Pre-Existing Dwellings and Residential Lots.* Pre-existing dwellings that do not conform to Sec. 13-1-30(4)(b) above may be continued in residential use and shall not be considered nonconforming uses under this Ordinance. Such pre-existing dwellings may be altered, repaired or rebuilt if destroyed but are subject to setback, height and other dimensional requirements. Residential lots of record held in separate ownership from adjoining lands at the date of the adoption of this ordinance may be used for new dwellings (one per lot of record), that shall then be classified as pre-existing dwellings.
  - d. *Accessory Structures.* Accessory structures and improvements consistent with agricultural uses, and those consistent with dwellings as listed under Sec. 13-1-30(4)(b) above.
  - e. *Accessory Uses.* Uses clearly related, but incidental to the primary farm operation such as seed and fertilizer sales, grain drying and repair of farm equipment.
  - f. *Gas and electric utility* uses consistent with agricultural uses and not requiring authorization under Section 196.491, Wisconsin Statutes.
  - g. *Community living arrangements* serving eight (8) or fewer persons; adult family homes; foster homes and treatment foster homes, subject to Section 60.63(3), Wisconsin Statutes; family day care homes.
5. **Conditional Uses.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any Conditional Use Permits in the EAU District. Conditional Use Permits may be granted only for those uses outlined below that are consistent with agricultural uses. The following uses are allowed in the EAU District upon the granting of a Conditional Use Permit:
- a. Religious, institutional, governmental and utility uses that are not permitted uses and are found to be locating in an EAU District by necessity in light of alternative locations available for such uses.
  - b. Community living arrangements serving nine (9) or more persons; day care homes for the care and supervision of nine (9) or more children.
  - c. Commercial feedlots of five hundred (500) or more cattle or one thousand (1000) or more hogs or sheep.
  - d. A structure or improvement made incident to a lease for oil and natural gas exploration and extraction.
  - e. Farm dwellings and related structures, existing prior to the adoption of this Ordinance, that are separated from the farm lot after farm consolidation.
  - f. Home occupations other than those specifically defined in Sec. 13-1-30(4)(e) and Sec. 13-1-44(2).

- g. The temporary, seasonal establishment of one (1) roadside stand per lot for the sale of produce grown on the premises shall be allowed without a temporary use permit.
- h. Family farm businesses if limited to existing farm dwellings or structures or portions of the existing farmstead that are not dedicated to agricultural uses. No more than two (2) persons who are not members of the resident farm family may be employed in the family farm business. For purposes of this subsection, “family farm business” means any of the following:
  - i. The purchase, sale, lease or rental of personal or real property;
  - ii. The manufacture, processing or marketing of products, commodities or any other personal property;
  - iii. The sale of services.

6. **Decision Criteria for Conditional Use Permits.** When deciding on Conditional Use Permits in the EAU District, the Planning Commission shall consider the following criteria instead of those set forth in Sec. 13-1-77(5) of this Ordinance:

- a. The relationship of the application to the “Purposes” set forth above;
- b. The compatibility of, and/or potential conflict with existing agricultural uses;
- c. The need of the proposed use to be located in the EAU District;
- d. The availability of alternative locations in districts other than EAU or AT;
- e. The agricultural productivity of the lands involved;
- f. The acreage of productive agricultural land to be converted to non-agricultural use by the proposed use;
- g. Whether adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time;
- h. Whether the provision of public facilities to accommodate development will place an unreasonable burden on the Town to provide them;
- i. Whether the land proposed for rezoning is suitable for development;
- j. Whether development will result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.
- k. **Conditions That May Be Attached.** The following conditions may be attached to the granting of a Conditional Use Permit. A performance bond or other comparable form of security may be required to insure compliance with such requirements.
  - i. Increased setbacks and yards;
  - ii. Specifications for water supply, liquid waste, and solid waste disposal facilities;
  - iii. Landscaping and planting screens;
  - iv. Operational controls;
  - v. Erosion prevention measures;
  - vi. Location of the use on the lot; and
  - vii. Other requirements found necessary to fulfill the purpose and intent of this ordinance.

7. **Minimum Lot Size.** The minimum lot size to establish a residence or farm operation shall be thirty-five (35) acres, with the following exceptions:

- a. The minimum lot size to establish a separate parcel for an additional residence for persons specified in Sec. 13-1-30(4)(b)(2)-(4) shall be one (1) acre.
  - i. Where an additional residence for persons specified in Sec. 13-1-30(4)(b)(2)-(4) is located on a farm without creating a separate parcel, the residence shall be at least one hundred (100) feet from other dwellings.
  - ii. Lots with farm dwellings and related structures specified in Sec. 13-1-30(5)(d) above shall be a minimum of 65,000 square feet and a maximum of five (5) acres.
  
- 8. **Height Limitations.** The maximum height for all residential structures shall be thirty-five (35) feet. The maximum height for all non-farm accessory structures shall be twenty (20) feet. There shall be no specific height limitation for any farm-related structures, except that the total height of any such structure shall not exceed .8 times its distance from the nearest lot line.
  
- 9. **Setbacks.** The minimum front yard for farm dwellings and accessory structures shall be according to Sec. 13-1-57, Highway Setbacks. The minimum side and rear yard for farm dwellings and accessory structures shall be twenty-five (25) feet. The minimum front, side and rear setbacks for structures housing livestock shall be one hundred (100) feet from the nearest lot line or road right-of-way, as applicable.
  
- 10. **Rezoning from EAU.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any rezoning. When considering rezonings from EAU to a different district classification, the Planning Commission and Town Board shall consider the following criteria instead of those set forth in Sec. 13-1-78(5)(b) of this Ordinance:
  - a. Adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time.
  - b. The provision of public facilities to accommodate development will not place an unreasonable burden on the Town to provide them
  - c. The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas
  - d. The potential for conflict with remaining agricultural uses in the area is.
  - e. The need of the proposed development location in an agricultural area.
  - f. The availability of alternative locations.
  - g. The productivity of the agricultural lands involved.
  - h. The location of the proposed development to minimize the amount of agricultural land converted.

**Sec. 13-1-31 Agricultural Transition (AT) District**

- 1. **Purpose.** This is a separate exclusive agricultural zoning district of a short-term nature. The Wisconsin Farmland Preservation Law recognizes that it may be desirable to limit some areas needed for future development to agricultural use on a short-term basis. Transition areas are intended to be areas in predominantly agricultural use which the plan identified for future development. The specific purposes of the Agricultural Transition (AT) District are to:

- a. Provide for the orderly transition of agricultural land to other uses in areas planned for eventual urban expansion;
  - b. Defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost;
  - c. Ensure that urban development is compatible with local land use plans and policies;
  - d. Provide periodic review to determine whether all or part of the lands should be transferred to another zoning district.
2. **Periodic Review.** The Town shall periodically review the AT District boundaries to determine the appropriateness of such land classifications. Review shall occur:
- a. A minimum of every five years;
  - b. Upon completion or revision of a Fond du Lac County Agricultural Preservation Plan or municipal land use plan that affects lands in the district; or
  - c. Upon extension of public services, such as sewer and water, necessary to serve urban development.
- Failure to review the AT District boundaries under these circumstances shall not invalidate or affect the enforceability of this ordinance.
3. **Applicability.** The AT District generally includes lands appropriate for inclusion in the EAU District, except that their location adjacent to incorporated municipalities or urbanized areas makes conversion to non-agricultural uses likely in the foreseeable future.
4. **Definitions Related to the AT District.**  
**USES CONSISTENT WITH AGRICULTURAL USE:** For purposes of this subsection, a “use compatible with agricultural uses” must meet all of the following criteria:
- a. The activity will not convert land that has been devoted primarily to agricultural use;
  - b. The activity will not limit the surrounding land’s potential for agricultural use;
  - c. The activity will not conflict with agricultural operations on the land subject to a farmland preservation agreement;
  - d. The activity will not conflict with agricultural operations conducted on other properties.
5. **Permitted Uses.** Same as Sec. 13-1-30, EAU District.
6. **Conditional Uses.** Same as Sec. 13-1-30, EAU District.
7. **Lot, Height and Setback Requirements.** Same as Sec. 13-1-30, EAU District.
8. **Rezoning from AT.** Same as Sec. 13-1-30, EAU District.

**Sec. 13-1-32 General Agriculture (A-1) District**

1. **Purpose.** The purpose of the General Agricultural (A-1) District is to provide for the continuation of small-scale, general agriculture and related uses in those areas generally suitable for farming, but that do not necessarily meet the standards and objectives of the EAU or AT Districts. The intent is to conserve areas with soils, drainage and topography generally suitable for farming, and to regulate residential, commercial and industrial development in those areas.

2. **Permitted Uses.** See Exhibit 1: District Use and Impact Classifications.
3. **Conditional Uses.** See Exhibit 1: District Use and Impact Classifications
4. **Minimum Lot Size.** Ten (10) acres.
5. **Height Limitations.** Same as Sec. 13-1-30, EAU District.
6. **Setback Requirements.** Same as Sec. 13-1-30, EAU District.

**Sec. 13-1-33 Residential (R-1) District**

1. **Purpose.** The Residential (R-1) District is intended to provide for high quality, year-round residential development in areas where the reasonable provision of municipal services is feasible. This District is designed to provide single-family homesites in those developing areas that offer “rural residential” amenities, services and facilities.
2. **Permitted Uses.** See Exhibit 1: District Use and Impact Classifications.
3. **Conditional Uses.** See Exhibit 1: District Use and Impact Classifications.
4. **Minimum Lot Size and Density for Single- and Two-Family Residences.** According to Exhibit 2.

**EXHIBIT 2  
MINIMUM LOT SIZE/WIDTH/DENSITY FOR R-1 DISTRICT**

	<b>Subdivision lots (&gt; 4 lot subdivisions), other cluster development, and conservation subdivisions</b>	<b>Other one-family lots and other permitted uses</b>	<b>Other two-family lots</b>
<b>Lots served by public sanitary sewer</b>	<p>20,000 sq.ft. minimum lot size</p> <p>1 dwelling unit/acre minimum density for development</p> <p>75 feet minimum lot width at building line</p>	<p>1 acre minimum lot size</p> <p>1 dwelling unit/acre minimum density</p> <p>100 feet minimum lot width at building line</p>	<p>1 acre minimum lot size</p> <p>2 dwelling units/acre minimum density</p> <p>100 feet minimum lot width at building line</p>
<b>Lots served by private sewer system</b>	<p>1 acre minimum lot size 22,000 sq. ft. for conservation subdivisions with clustered wastewater treatment</p> <p>1 dwelling unit/acre minimum density</p> <p>100 feet minimum lot width at building line</p>	<p>1 acre minimum lot size</p> <p>1 dwelling unit/acre minimum density</p> <p>100 feet minimum lot width at building line</p>	<p>1 acre minimum lot size</p> <p>2 dwelling units per 1 acre minimum density</p> <p>120 feet minimum lot width at building line</p>

- a. Minimum Lot Size for Multi-Family Dwellings (Allowed Only in City of Fond du Lac Growth Area on Public Sanitary Sewer). One and one-half (1-1/2) acre.
- b. Minimum Lot Size for Other Permitted Uses. One acre.
- c. Height Limitations for Principal Building. Thirty-five (35) feet.
- d. Minimum Front Yard Setback. See Sec. 13-1-57, Highway Setbacks.
- e. Minimum Side And Rear Yard Setbacks. The minimum side yard setback shall be ten (10) feet; however, the sum of the widths of both side yards shall be no less than thirty (30) feet. The minimum rear yard setback shall be twenty-five (25) feet.

### **Sec. 13-1-34 Business (BD) District**

1. **Purpose.** The Business (BD) District is intended to provide for the orderly and attractive grouping of convenient locations of local retail stores, commercial offices and establishments serving the needs of Town residents.
2. **Permitted Uses.** See Exhibit 1: District Use and Impact Classifications.
3. **Conditional Uses.** See Exhibit 1: District Use and Impact Classifications.
4. **Minimum Lot Size.** One and one-half (1 1/5) acre.
5. **Height Limitations for Principal Building.** Forty (40) feet.
6. **Minimum Front Yard Setback.** See Sec. 13-1-57, Highway Setbacks.
7. **Minimum Side And Rear Yard Setbacks.** The minimum side yard setback shall be ten (10) feet; however, the sum of the widths of both side yards shall be no less than thirty (30) feet. The minimum rear yard setback shall be fifteen (15) feet for buildings up to twenty-five (25) feet in height, plus one foot for each additional five (5) feet, or fractional portion thereof, in height.

### **Sec. 13-1-35 Industrial (ID) District**

1. **Purpose.** The Industrial (ID) District is intended to provide for any manufacturing or industrial operation that, because of operational or physical characteristics, must be carefully sited to ensure compatibility with surrounding uses.
2. **Permitted Uses.** See Exhibit 1: District Use and Impact Classifications.
3. **Conditional Uses.** See Exhibit 1: District Use and Impact Classifications.
4. **Minimum Lot Size.** Two (2) acres.
5. **Height Limitations for Principal Building.** Sixty (60) feet.
6. **Minimum front yard.** See Sec. 13-1-57, Highway Setbacks.
7. **Minimum side and rear yard setbacks.** Twenty-five (25) feet minimum side and rear yard setbacks.

### **Sec. 13-1-36 Critical Areas Overlay (CAO) District**

1. **Purpose.** The Critical Areas Overlay (CAO) District is intended to protect the public health and safety by minimizing development in areas prone to unwanted soil erosion and groundwater contamination, and on sites difficult to develop in a safe manner, and promote the general welfare by preserving unique and valuable geologic and other natural resource features of the Town of Empire. The regulations of the CAO District are premised, in part, on a shared community vision, discovered and detailed through the

comprehensive planning process, that calls for protection of natural resources and unique geologic features found within the Town.

2. **General Protection Policies.** It is the policy of the Town of Empire that the beneficial functions, structures, and values of critical areas be protected, and, further, that potential dangers or public costs associated with inappropriate use of such areas be eliminated or reduced by reasonable regulation. The standards of the CAO District represent a reasonable balance between individual and collective interests. In striking that balance, the Town recognizes that, because of the wide variety of types of developments, and the relationships between them and their natural environments, it is neither possible or advisable to establish inflexible critical areas protection standards. The standards set forth in Sec. 13-1-36 are presumptive requirements. The reviewing body may permit deviations from these presumptive standards whenever it is determined that such deviations will satisfy the purposes set forth in Sec. 13-1-36(1) above. In considering the appropriate course of action to follow when allowing deviations from the standards of Sec. 13-1-36, the preferences set forth below are established to guide development actions; they are in no particular order, and may be mixed to achieve maximum critical areas protection while facilitating reasonable use of property:
  - a. Avoid the impact altogether by not allowing a particular action unless no reasonable, noncritical area alternatives are available;
  - b. Avoid the impact by directing the particular action to noncritical areas on the same site, which may require deviation from the physical or dimensional requirements of this Ordinance (such as setbacks or lot dimensions);
  - c. Minimize the impact by limiting the degree or magnitude of the action;
  - d. Rectify the impact by repairing, rehabilitating or restoring the affected critical area.
3. **Triggering Applications.** The regulations of Sec. 13-1-36 apply in all zoning districts, and are triggered whenever an application for any of the following actions is filed (hereinafter referred to as “triggering applications”) and it is found that such action is taking place on a parcel of real property containing a designated critical area or its buffer:
  - a. Any permit or action set forth in Article G of this Ordinance;
  - b. Any permit required by the Town of Empire Subdivision Ordinance;
  - c. Clearing and grading permits, or permits for any other “development” activity, as that term is defined in Sec. 13-1-92, Definitions.
4. **Exemptions.** The following activities are specifically exempt from the provisions of Sec. 13-1-36, whether or not such activity requires the submission of a triggering application:
  - a. Existing and ongoing agricultural activities.
  - b. Normal and routine maintenance and operation of existing irrigation and drainage ditches, swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons and livestock water ponds; provided that such activities do not involve conversion of any critical areas not being used for such activities to another use;
  - c. Construction, maintenance, operation and repair or replacement of existing utility facilities and associated rights-of-way, including reasonable access roads;
  - d. Site investigative work in conjunction with the preparation of a land use application submittal, such as surveys, soil logs, percolation tests and other related activities;
  - e. Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways;

- f. Any projects for which application(s) have been submitted prior to the adoption of this Ordinance.
5. **Application of Standards.** No application involving a designated critical area shall be approved unless it is determined to be in compliance with Sec. 13-1-36 of this Ordinance. The standards of Sec. 13-1-36 of this Ordinance shall be applied in addition to other applicable requirements of this Ordinance. Whenever other requirements of this Ordinance conflict with the requirements of Sec. 13-1-36, the most stringent requirements shall govern. In instances where a proposal involves a parcel of real property with more than one critical area the standards that pertain to each identified critical area shall apply. Compliance with Sec. 13-1-36 shall not remove any obligations with respect to applicable provisions of any other federal, state, county or Town regulation.
  6. **Identification of Critical Areas Through Public Information.** Upon submittal of triggering application, the Permit Issuer shall determine the probable existence of critical areas on the parcel involved in the application. The Permit Issuer shall review and consider the most appropriate, publicly available information in determining the probable existence of critical areas, including, but not limited to, the following:
    - a. Large scale (1" = 200') Fond du Lac County topographic maps;
    - b. USGS 7.5-minute topographic quadrangle maps;
    - c. 1" = 400' aerial photographs;
    - d. Town of Empire, Drumlin and Remnant Forest Survey, February 4, 1998 - Prepared by Herman Bender;
    - e. Town of Empire Cultural and Environmental Survey, February 4, 1998 - Prepared by Herman Bender.
    - f. "Wisconsin Wetland Inventory" maps prepared by the Wisconsin Department of Natural Resources;
    - g. Town of Empire Comprehensive Plan - Adopted March, 1998.
  7. **Requirement of Private Studies/Other Information.** The Permit Issuer may also conduct field investigations with permission of the landowner, and may require private studies be conducted by the applicant, including, but not limited to, the following:
    - a. Topographic surveys prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
    - b. Field surveys of trees and/or plant material compiled by a landscape architect, forester, arborist, biologist or botanist with a professional degree in one of those fields of endeavor.
  8. **Application Processing When Critical Areas are Present.** Conditional Use Permit Required. Any action taking place on a parcel of real property containing a designated critical area requires that the applicant apply for, and be granted a Conditional Use Permit under the procedures set forth in Sec. 13-1-77 of this Ordinance. If the triggering application is an application for a Conditional Use Permit, such application shall be sufficient to satisfy this requirement.
    - a. **Submission Requirements.** Applicants shall submit the following information along with the application for a Conditional Use Permit:
      - i. Ten (10) full size copies of a "Critical Areas Protection Plan" prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate that correctly shows the following information:
      - ii. A drawing legend at appropriate scale with the date of preparation, north arrow, and designation of existing and proposed contours at a minimum two (2) foot contour interval.
      - iii. The location of the proposed development activity.

- iv. The names, addresses and telephone numbers of the owners, Subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
- v. The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
- vi. The location of any existing or proposed lot lines, right-of-way lines and easements.
- vii. The location and dimensions of all permanent easements on the subject property and boundary lines adjacent to the site.
- viii. The location and extent of any existing critical areas features defined and described in Sec. 13-1-36 below. Each individual resource area on the site shall be graphically and numerically shown on the Critical Areas Protection Plan.
- ix. Graphic and numeric illustration shown on the Critical Areas Protection Plan of those existing critical areas features (in square feet or acres) that will be disturbed and those that will be preserved. Numeric data may be shown in tabular form with labeled reference to specific areas designated on the Critical Areas Protection Plan.
- x. Graphic illustration and notes relating to how the protection/mitigation measures set forth in Sec. 13-1-36(2) will be achieved.

9. **Application Processing.** If the procedures governing the triggering application require Planning Commission or Board of Appeals review, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by the applicable decision-making body concurrent with the triggering application. In all other cases, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by following the procedures for Site Plan Review set forth in Sec. 13-1-74 of this Ordinance.
10. **Required Findings.** In addition to addressing the decision criteria of the underlying triggering application, the decision-making body shall also determine how the Critical Areas Protection Plan meets the protection standards set forth in Sec. 13-1-36(2) or, when deviation from the standards is permitted, how the plan achieves maximum critical areas protection while facilitating reasonable use of property.
11. **Protected Critical Area: Niagara Escarpment.** The purposes of regulating the Niagara Escarpment area are to promote safe conditions by preventing development that requires the placement of roads on steep inclines, to protect the integrity of groundwater resources subject to pollutant infiltration through crags in the bedrock surface, to preserve the area as a unique, visually prominent geologic feature that contributes to the diversity of landscape of the Town of Empire, and to preserve the functions of the Escarpment area as a critical wildlife corridor.
- a. **Regulated Area.** A buffer area extending six hundred (600) feet in each direction (total buffer width = 1,200 feet) from the ridgeline of the Niagara Escarpment as generally depicted in the Town of Empire Comprehensive Plan. The term ridgeline is defined as the ground line located at the highest elevation of the ridge, within the buffer area, and running parallel to the long axis of the ridge.
  - b. **Prohibited or Regulated Activities.**
    - i. All quarrying, sand and gravel pits, and other nonmetallic mining activities are prohibited in the Regulated Area.
    - ii. No telecommunication tower locating in the Regulated Area shall be located within five thousand (5,000) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.

- iii. No portion of any building or structure shall be constructed to extend above the highest point of the ridgeline nearest to the building site unless the proposed construction will be screened from public view from below by existing mature vegetation (See Exhibit 3).
- iv. Existing mature vegetation along the ridgeline shall be preserved to the greatest extent possible.
  - v. Significantly visible rock outcroppings shall be preserved and incorporated into site design to the greatest degree possible.
- vi. Grading shall create a naturally-sloped effect that conforms to the topography of the site. Disturbed areas shall be replanted with common vegetation.

12. **Protected Critical Area: Conservancy Preservation Area.** The purpose of regulating the Conservancy Preservation Area is to maintain a natural buffer between future development occurring west of USH 151 and the rural, relatively undeveloped central and eastern portions of the Town.

- a. **Regulated Area.** An expanse of land generally extending south from STH 23 to CR H and east from CR K to Grandview Road as identified on the Town of Empire 20-Year Future Land Use Map as Preservation Area.
- b. **Permitted Uses**
  - i. Hiking, fishing, and trapping unless prohibited by other laws or ordinances.
  - ii. Harvesting of wild crops, such as hay, ferns, moss, berries, fruit trees, and tree seeds in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, tiling, or excavating.
  - iii. Existing agricultural uses provided that they do not involve the extension of cultivated areas, extension or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
  - iv. Recreational and educational trails and trail amenities including, but not necessarily limited to: park pavilions and shelters, benches, and restroom facilities.
- c. **Prohibited or Regulated Activities.**
  - i. All quarrying, sand and gravel pits, and other nonmetallic mining activities are prohibited in the Regulated Area.
  - ii. No telecommunication tower locating in the Regulated Area shall be located within five thousand (5,000) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.
  - iii. No permanent structures other than those consistent with passive recreational uses will be allowed within the Conservancy Preservation Area.
  - iv. Existing mature vegetation shall be preserved to the greatest extent possible.

13. **Protected Critical Area: Dark-Sky Lighting.** Refer to Chapter XX for Exterior Lighting (Dark-Sky) Requirements.

14. **Exception for Existing Lots of Record.** Nothing in Sec. 13-1-36(9) shall prevent one one-family detached home from being built on any legal lot existing on the effective date of this Ordinance, provided it complies with the other development standards of this Ordinance, any grading ordinances presently in effect, and the development standards of the underlying zone. Where provisions may conflict, the most restrictive shall apply.

### **EXHIBIT 3**

### **BUILDING HEIGHT LIMITATION IN NIAGARA ESCARPMENT CRITICAL AREA**

1. **Protected Critical Area: Steep Slopes.** The purposes of regulating steep slope areas are to promote safe conditions by preventing development that requires the placement of roads on steep inclines, minimizing erosion and negative visual impacts by preserving natural grades of the land, protecting visually prominent natural features by preserving ridgelines and other significant natural topographical features of hilly areas within the Town of Empire.
  - a. *Regulated Area.* Any properties or portions thereof that have an average slope of fifteen (15) percent or greater shall be subject to the provisions of this subsection.
  - b. *Prohibited or Regulated Activities.*
    - i. All quarrying, sand and gravel pits, and other nonmetallic mining activities are prohibited in the Regulated Area.
    - ii. No buildings, structures, driveways, private roads or roads to be dedicated to the public shall be constructed upon portions of any site where the true slope is twenty-five (25) percent or greater.
    - iii. No buildings or structures shall be constructed on a site unless its access road (on or off-site) can be built so that no length of said road has a slope of greater than twenty-five (25) percent.
    - iv. No portion of any building or structure shall be constructed to extend above the highest point of the hill or bluff upon which said development is taking place unless the proposed construction will be screened from public view from below by existing, mature vegetation.
    - v. No telecommunication tower locating in the Regulated Area shall be located within five thousand (5,000) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.
    - vi. On lots with an average slope of fifteen (15) percent to thirty (30) percent, impervious surface shall not exceed ten (10) percent of the gross lot size.
    - vii. Removal of existing mature vegetation shall be minimized to the greatest extent possible.
    - viii. Grading shall create a naturally-sloped effect that conforms to the topography of the site. Disturbed areas shall be replanted with common vegetation.
2. **Exception for Existing Lots of Record.** Nothing in Sec. 13-1-36(10) shall prevent one one-family detached home from being built on any legal lot existing on the effective date of this Ordinance, provided it complies with the other development standards of

this Ordinance, any grading ordinances presently in effect, and the development standards of the underlying zone. Where provisions may conflict, the most restrictive shall apply.

3. **Protected Critical Area: Woodlands.** The woodlands of the Town of Empire significantly contribute to the scenic attractiveness of the town and provide habitat for numerous species of plant and animal life. The purpose of these regulations is to perpetuate the existence of woodlands.
4. **Regulated Area.** Areas or stands of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast (DBH) of at least ten (10) inches; or any grove consisting of fifteen (15) or more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove. No trees grown for commercial purposes should be considered a woodland.
5. **Prohibited or Regulated Activities.**
  - a. Clearing of trees shall be permitted for building footprints, driveways and sites for onsite sewage disposal systems. Building footprints may be cleared a distance of twenty-five (25) feet from the exterior walls of principal buildings and fifteen (15) feet from accessory buildings. Selective pruning of remaining trees shall be permitted, provided that seventy (70) percent of the original canopy is left intact.
  - b. Selective pruning of woodlands shall be permitted, provided that seventy (70) percent of the original canopy is left intact.
  - c. Clearcutting on contiguous land under single ownership shall be permitted, provided that the clearcut area not exceed the lesser of ten (10) acres or thirty (30) percent of woodlands in any ten-year period. An area clearcut for commercial purposes shall not be converted or developed for another use within seven (7) years from the date clearcutting was completed.
  - d. Other sound forestry practice techniques (as defined in Chapter 46, Wisconsin Administrative Code) recommended by a qualified forester are permitted if designed to protect or enhance the woodlands.
6. **Exception.** Exceptions to these restrictions may be granted upon a showing of special needs or circumstances of the landowner.

**Sec. 13-1-37 through Sec. 13-1-39 Reserved for Future Use**

## **ARTICLE D: SPECIAL PROVISIONS**

### **Sec. 13-1-40 Manufactured Homes; Mobile Homes; Mobile Home Parks**

1. **Purpose.** The Town Board finds that regulating the location and placement of manufactured homes and mobile homes is necessary to ensure that the siting of such units is aesthetically harmonious with the surrounding uses and preserves the general character and integrity of the neighborhood. Sec. 13-1-40 is not intended to address the commercial or industrial use of these units.
2. **Applicability.** Sec. 13-1-40 regulates the location and placement of manufactured homes and mobile homes, and the location, development and expansion of mobile home parks. A manufactured home, as defined by this Ordinance, shall be considered a Single-Family Dwelling, not subject to the provisions of Sec. 13-1-40, if it meets all of the following criteria:

- a. The structure is located on an individual lot and taxed as an improvement to real property in the same manner as a conventionally-built, single-family dwelling;
  - b. The structure is connected to utilities and permanently installed on a foundation system in compliance with the applicable requirements of the Uniform Building Code;
  - c. The structure is covered with an exterior siding material customarily used on conventionally-built, single-family dwellings that extends to the ground or, in the case of a solid concrete or masonry perimeter foundation, extends to the top of the foundation; and
  - d. The roof is constructed of shingles or other material customarily used for conventionally-built, single-family dwellings.
3. **Locational Restrictions; Manufactured Homes and Mobile Homes.** Manufactured homes and mobile homes are permitted uses only in mobile home parks that are established and operated in compliance with Sec. 13-1-40(d).
4. **Mobile Home Parks**
- a. *Locational Restrictions.* Mobile home parks are permitted uses only in the R-1 District upon receipt of a Site Plan Permit and a Conditional Use Permit, in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-77.
  - b. *Development Design Standards.* A mobile home park shall be designed and constructed to comply with the following standards:
    - i. *Site Preparation.* Existing trees, rock formations and other natural site features shall be preserved to the extent practical. Mobile/manufactured home sites shall be fitted to the terrain with minimum site disturbance. The developer shall provide an approved potable water supply and public sewer or a private sewage collection and treatment system that meets all state, county and Town requirements.
    - ii. *Minimum Lot Size.* The minimum lot size for a mobile home park shall be ten (10) acres.
    - iii. *Minimum Front Yard for Mobile Home Park.* See Sec. 13-1-57, Highway Setbacks.
    - iv. *Minimum Side and Rear Yards for Mobile Home Park.* Twenty-five (25) feet.
    - v. *Recreation Areas.* A minimum of eight (8) percent of the gross area of the mobile home park shall be devoted to recreational areas and facilities.
    - vi. *Parking.* See Sec. 13-1-53, Parking and Loading.
    - vii. *Landscaping.* See Exhibit 1 and Sec. 13-1-52, Landscaping and Buffering.
    - viii. *Driveway Standards.* Each mobile/manufactured home site shall abut a driveway no less than fifty (50) feet in width, of which not less than twenty-two (22) feet shall be paved. The driveway shall access a public street. The paved surface shall meet the standards and specifications used for bituminous road construction by the Town. The driveway shall be lighted at night.
    - ix. *Site Density and Spacing.* The maximum gross density of mobile/manufactured home sites shall be five (5) sites per acre. Each mobile/manufactured home site shall be clearly defined and shall accommodate no more than one mobile/manufactured home and one accessory structure.
    - x. *Minimum Site Size.* Five thousand (5,000) square feet per mobile/manufactured home site.

- xi. **Maximum Site Coverage.** Thirty (30) percent of site area for mobile/manufactured home and accessory structure.
- xii. **Minimum Yard Requirements.** The minimum allowable yards between mobile/manufactured homes, between mobile/manufactured homes and lot lines, or between mobile/manufactured homes and enclosed appurtenances shall be ten (10) feet front yard, twenty (20) feet side yards, and fifteen (15) feet rear yard.
- c. **Skirting.** Mobile/manufactured homes shall have around their perimeters a continuous skirting material of wood, metal or masonry extending from the bottom of the home to the finished grade of the home stand, with open space(s) only as necessary to allow for necessary utility lines, hitches or other appurtenances.
- d. **Offices and Management Residences.** One permanent residence and attached office is permitted within park boundaries for a resident manager and his/her immediate family members.

**Sec. 13-1-41 Personal Wireless Service Facilities**

1. **Purpose.** The Town Board finds that regulating matters related to the location and placement of personal wireless service facilities is necessary to protect the public health, safety and welfare while accommodating the communications needs of residents and businesses in a manner consistent with federal law. The purposes of Sec. 13-1-41 are to:
  - a. Facilitate the provision of wireless telecommunication services to the residents and businesses of the Town;
  - b. Minimize adverse visual effects of towers through design and siting standards;
  - c. Avoid potential damage to adjacent properties from tower failure through setback requirements;
  - d. Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the Town;
  - e. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town.

2. **Definitions Related to Personal Wireless Service Facilities**

**ABOVE GROUND LEVEL (AGL):** A measurement of height from the natural grade of a site to the highest point of the structure.

**ALTERNATIVE SUPPORT STRUCTURE:** Structures other than towers that may support personal wireless service facilities antennas, including but not limited to buildings, water towers, steeples, silos or utility poles.

**ANTENNA:** The surface from which wireless radio signals are sent and received by a personal wireless service facility, including directional panel antennas, dishes and omnidirectional “whip” antennas.

**CAMOUFLAGED:** A personal wireless service facility that, due to design or appearance, hides, obscures or conceals the presence of the tower and antennas.

**CARRIER:** A company that provides wireless services. As used in this subsection, “carrier” shall also include companies that build telecommunications towers and lease tower space to carriers.

**CO-LOCATION:** The use of a single support structure by more than one carrier.

**FALL ZONE:** The area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**MONOPOLE:** A type of tower that is self-supporting as a single pole design.

*PERSONAL WIRELESS SERVICES:* Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Federal Telecommunications Act of 1996.

*PERSONAL WIRELESS SERVICE FACILITY:* A facility for the provision of personal wireless services.

*SEPARATION:* the distance between one carrier's antenna array and another carrier's array.

*TELECOMMUNICATIONS TOWER:* Any structure designed and constructed primarily for the purpose of supporting one or more personal wireless service facility antennas, including, but not limited to monopoles, guyed towers and lattice towers.

*TOWER, GUYED:* A monopole or lattice tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

*TOWER, LATTICE:* A type of tower that is self-supporting with multiple legs and cross-bracing of structural steel.

*TELECOMMUNICATIONS SUPPORT FACILITY:* An enclosed building, cabinet, shed or box within which are housed batteries, electrical or other equipment necessary for the operation of the personal wireless service facility.

3. **Exemptions.** The following uses are not subject to the provisions of Sec. 13-1-41:
  - a. Television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunication facility and that the antenna use is accessory to the primary use of the property.
  - b. Antennas and supporting towers, poles and/or masts owned and/or operated by and for federally licensed amateur radio operations.
  - c. Mobile services providing public information coverage of news events of a temporary or emergency nature.
  - d. Any other devices listed as exempt in Section 704 of the Federal Telecommunications Act of 1996.
4. **Locational Restrictions.** Wireless communication facilities shall comply with the following locational restrictions. The provisions of Sec. 13-1-36, Critical Areas Overlay District apply additional restrictions to those facilities located in identified Critical Areas:
  - a. Personal wireless services antennas locating on alternative support structures are permitted uses in any District upon receipt of a Site Plan Permit if the highest point of the antenna is thirty (30) feet or less above the highest point of the alternative support structure. A Conditional Use Permit shall be required for locating on an alternative support structure if the highest point of the antenna is greater than thirty (30) feet above the highest point of the alternative support structure or the antenna or support facilities significantly alter the appearance or structure of the alternative support structure.
  - b. Personal wireless service facilities co-locating on existing telecommunication towers are permitted uses upon receipt of a Site Plan Permit, provided that the installation of the new facility does not increase the overall height of the existing structure by more than twenty (20) feet. A Conditional Use Permit shall be required for collocating on an existing tower if the collocated antenna array or equipment increases the overall height of the existing tower by more than twenty (20) feet or significantly alters the appearance or structural integrity of the tower approved and permitted under this Section.
  - c. Temporary telecommunication towers one hundred (100) feet AGL or less in height, and supporting facilities (commonly known as "cells on wheels"), are permitted uses only in the A-1, BD and ID Districts upon receipt of a Site Plan

Permit; said Permit shall be for a period not to exceed one year. The applicant's site plan shall clearly demonstrate that the proposed temporary tower does not pose a public safety hazard.

- d. Telecommunications towers and their support facilities are permitted uses only in the A-1, BD and ID Districts upon receipt of a Conditional Use Permit and a Site Plan Permit, provided that no Conditional Use Permit for the placement or construction of a telecommunications tower shall be issued unless the applicant presents to the committee credible evidence establishing to a reasonable degree of certainty the following:
  - i. No existing telecommunication tower is located within the area in which the applicant's equipment must be located;
  - ii. No existing telecommunication tower within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost;
  - iii. No existing telecommunication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment, and the deficiency in structural strength cannot be remedied at a reasonable cost;
  - iv. The applicant's equipment would cause electromagnetic interference with equipment on the existing telecommunications tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing telecommunications tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost;
  - v. The fees, costs or contractual provisions required by the owner in order to collocate on an existing telecommunication tower are unreasonable relative to industry norms; or
  - vi. The applicant demonstrates that there are other factors that render existing telecommunication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new telecommunication tower.
5. **Security for Removal.** The applicant for a Conditional Use Permit for a telecommunication tower shall, prior to issuance of such permit, provide to the Town of Empire a performance bond in the amount of twenty thousand (\$20,000) dollars, or an amount equal to a written estimate of the cost of removal prepared by a qualified contractor, or other comparable security to guarantee that the telecommunications tower will be removed when no longer in operation. The Town will be named as obligee in the bond and must approve the bonding company.
6. **Minimum Separation.** No telecommunication tower shall be located within one thousand, five hundred (1,500) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.
7. **Development Design Standards.** Wireless communication facilities shall comply with the following standards:
  - a. *Provision of Space on Telecommunications Towers for Co-Location.* All telecommunications towers shall be constructed to physically accommodate and structurally support at least two (2) additional carriers for co-location of other telecommunications facilities. Co-location space need not be available on the

tower as initially placed or constructed, provided that the tower will support the later addition of the required number of co-located facilities. The tower owner/operator shall make the co-location spaces available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates that allow the tower owner/operator to recoup the cost of providing the co-location sites and a fair return on investment.

- b. *Minimum Parcel Size.* If a telecommunication tower and support facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the zoning district in which the land is located. If a tower and support facilities are located on a leased parcel of land that already has a principal use, the facilities shall be considered an accessory use and a smaller area of land may be leased provided that all requirements of this ordinance are met.
  - c. *Minimum Setbacks for Telecommunications Towers.* The following setback provisions shall be measured from the base of the tower or telecommunications support facilities, unless otherwise stated. If more than one setback standard applies in a particular situation (i.e. lot line and habitable buildings) the greater setback distance prevails.
    - i. Highway Setbacks. See Sec. 13-1-57, Highway Setbacks.
    - ii. Lot Line Setbacks. Fifty (50) feet for towers; twenty-five (25) feet for guy wire anchors in the case of guyed towers.
    - iii. Setbacks From Habitable Commercial and Residential Buildings. One hundred twenty-five (125) percent of the height of the tower AGL.
  - d. *Security and Landscaping.* Towers and guy wires shall be surrounded with security fencing or equipped with anti-climbing devices, if appropriate. If located in a highly visible area, the tower and any support facilities shall be landscaped at the L3 level or greater. (See Sec. 13-1-52, Landscaping and Buffering).
  - e. *Camouflaging.* Camouflaged towers and support facilities are encouraged and may be required in Critical Areas, residential areas, or other sensitive areas as determined by the appropriate decision-making body.
  - f. *Color.* A telecommunications tower shall be painted a non-contrasting color in relation to its environment unless otherwise required by the Federal Communications Commission or Federal Aviation Administration. Towers using unpainted galvanized metal are permitted.
  - g. *Lighting.* Telecommunications towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable regulatory body.
  - h. *Signage.* The use of any portion of a telecommunications tower or support facilities for any signs other than warning or equipment information signs is prohibited.
  - i. *Access.* All telecommunications tower sites must be served by an ingress/egress road with a minimum thirty (30) foot right-of-way and turnaround. Existing access points shall be utilized wherever possible. The access point shall be approved by the applicable governmental body with jurisdiction.
8. **Technical Review.** In the event the decision-making body determines that it is necessary to consult with an independent technical expert regarding an applicant's assertion of the existence of factors listed in Sec. 13-1-41(4)(d) above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant.

Failure to pay such costs and expenses or provide information requested by the decision-making body shall be grounds for denial or revocation of a Conditional Use Permit. The applicant may provide to the decision-making body the names of consultants that the applicant believes are qualified to assist in resolving the issues before the decision-making body.

9. **Abandonment.** Permits issued hereunder shall identify the primary type or types of transmission equipment that is to be placed on the subject telecommunication tower. Any telecommunication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of twelve (12) months shall be removed by the holder of the Conditional Use Permit issued under this Section. If the tower is not removed within sixty (60) days of such notification, the Town may remove the tower at the expense of the holder of the Conditional Use Permit.

### **Sec. 13-1-42 Quarrying, Sand and Gravel Pits, Nonmetallic Mining**

1. **Purpose.** The Town finds that regulation of nonmetallic mining operations is necessary to ensure the continued extraction of rock, stone, gravel, sand and minerals without disrupting or endangering adjacent land uses, while safeguarding public health and safety.
2. **Applicability/Exemptions.** Sec. 13-1-42 is applicable to all nonmetallic mining sites located wholly or partially within the Town. Sec. 13-1-42 does not apply to the following activities:
  - a. Excavations or grading by a person solely for domestic use at his residence.
  - b. Excavation or grading conducted for roadway construction purposes within the right-of-way or for roadway safety in or adjacent to the vision clearance triangle.
  - c. Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
  - d. Excavations for building construction purposes.
3. **Locational Restrictions.** Nonmetallic mining operations shall comply with all of the following locational restrictions:
  - a. Nonmetallic mining operations are permitted uses only in the ID District upon receipt of a Site Plan Permit and a Conditional Use Permit, in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-77.
  - b. An applicant for a Conditional Use Permit to conduct a nonmetallic mining operation shall submit evidence of receipt of a valid Fond du Lac County Reclamation Permit for the proposed operation in addition to the submission requirements set forth in Sec. 13-1-77. If a reclamation permit has not been issued, the Board of Appeals may issue a Conditional Use Permit conditioned upon the receipt of a reclamation permit prior to commencement of mining operations. In the event that the Town has enacted a Nonmetallic mining reclamation ordinance at least as restrictive as any such county ordinance, the applicant must comply with the Town's ordinance prior to the issuance of a Conditional Use Permit.
  - c. Nonmetallic mining operations shall be prohibited in or within five hundred (500) feet of any existing dwelling or other structure except for structures owned or leased by the mining operator.

4. **Development Design Standards.** Nonmetallic mining operations shall comply with the following standards:
- a. *Minimum Lot Size.* The minimum lot size for a nonmetallic mining operation involving concrete batching, asphalt mixing, clay bulking or rock crushing shall be twenty (20) acres. Other nonmetallic mining operations shall comply to minimum lot size standards of the ID District.
  - b. *Minimum Front, Side and Rear Setbacks.* All structures, and tops and toes of cut and fill slopes shall be set back from property boundaries and road rights-of-way no less than one hundred (100) feet for safety of adjacent properties and to prevent damage resulting from water runoff or erosion of slopes.
  - c. *Parking.* Manufacturing, General (See Sec. 13-1-53, Parking and Loading).
  - d. *Landscaping.* L5, High Berm or greater. (See Sec. 13-1-52, Landscaping and Buffering).
  - e. *Permissible Hours of Operation.* 6:00 a.m. to 7:00 p.m, unless otherwise authorized or restricted by the appropriate decision-making body.
  - f. *Erosion Control and Drainage.* All disturbed areas, including faces of cut and fill slopes, shall be prepared and maintained to control erosion, which may consist of plantings sufficient in amount or type to stabilize the slope. Provisions shall be made to prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a hill and to drain any surface waters that may be concentrated as a result of a fill or excavation to a natural watercourse.

#### **Sec. 13-1-43 Adult-Oriented Establishments**

1. **Purpose.** The Town Board finds:
- a. Adult-oriented establishments require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the Town;
  - b. Adult-oriented establishments may be used for, or in connection with, unlawful sexual activities, including prostitution and sexual liaisons of a casual nature;
  - c. It has been found in Milwaukee and Kenosha Counties, Wisconsin; Chattanooga, Tennessee; Newport News, Virginia; and Marion County, Indiana, to name a few locales, that the viewing booths in adult-oriented establishments have been and are being used by patrons for engaging in sexual acts, particularly between males, including but not limited to, intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths;
  - d. Acquired Immune Deficiency Syndrome (AIDS) is a potentially fatal sexually-transmitted disease that destroys the body's immune system, and has no known cure;
  - e. Statistics from the State of Wisconsin have indicated an increase in the number of AIDS cases in the state;
  - f. The concern over sexually-transmitted diseases is a legitimate health concern of the Town that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the Town;
  - g. Licensing is a legitimate means of accountability to ensure that operators of adult-oriented establishments comply with reasonable regulations and to insure

that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation;

- h. Adult-oriented establishments, because of their very nature, have a deleterious effect on both the existing establishments around them and the surrounding residential areas adjacent to them;
- i. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area;
- j. The Town Board wants to prevent these adverse effects and thereby protect the health, safety, and welfare of Town residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
- k. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments; and
- l. It is not the intent of the Town Board to condone or legitimize the distribution of obscene materials, and the Town Board recognizes that state and federal laws prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in the Town of Empire.

## 2. **Definitions Related to Adult-Oriented Establishments**

*ADULT BOOKSTORE:* An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.

*ADULT ENTERTAINMENT:* Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

*ADULT MOTION PICTURE THEATER:* An enclosed building used for presenting material having 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 as defined below for observation by patrons of the building.

*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 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.

**BOOTHS/CUBICLES/ROOMS/COMPARTMENTS/STALLS:** Enclosures that are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth," "cubicle," "room," "compartment," or "stall" does not mean such enclosures that are private offices used by the owners, managers, or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees, nor shall this definition apply to hotels, motels, or other similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

**OPERATORS:** Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

**SPECIFIED ANATOMICAL AREAS:** Less than completely and opaquely-covered human genitals, pubic region, buttocks, female breasts below the point immediately above the top of the areola; or, human male genitals in a discernible turgid state, even if opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado masochistic abuse, fellatio, or cunnilingus; or (c) fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

3. **License.** Except as provided below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the Town without first obtaining a license to operate issued by the Town Board. A license may be issued only for one adult-oriented establishment located at a fixed and certain location. Any person who desires to operate more than one adult-oriented establishment must have a license for each. No license or interest in a license may be transferred to any person. All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. A license fee in an amount established by the Town Board shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned. A license renewal fee in an amount established by the Town Board shall be submitted with the application for renewal. A license must be renewed every year.
4. **Application for License.** Any person desiring to secure a license shall make application to the Town Clerk. The applicant for a license shall furnish the following information under oath:
  - a. the name and address of the intended operator;
  - b. the name and address of the owner of the premises if different from the operator;
  - c. the name and address of the adult-oriented establishment to be operated by the applicant;
  - d. written proof that the individual is at least eighteen (18) years of age;
  - e. the address of the adult-oriented establishment to be operated by the applicant;
  - f. if the applicant is a corporation, limited liability company, or other non-natural person, the application shall specify the name of the entity, the date and state of organization, the name and address of the registered agents, and the name and address of all shareholders, members, or other persons owning an interest of

- more than five (5) percent of such entity and all officers, directors, non-member managers, and general partners of the entity;
  - g. if the establishment is in operation, the date on which the owner acquired the establishment for which the license is sought. The date on which the establishment began operations as an adult-oriented business at the location for which the license is sought;
  - h. if the establishment is an entity, a certified copy of the Articles of Incorporation, Articles of Organization, or the like and a certified copy of a certificate of good standing disclosing that the entity is authorized to transact business in the State of Wisconsin;
  - i. proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of a recorded deed; and
  - j. if the operator is not the fee owner of the tract of land, then the lease, purchase contract, purchase option contract, lease option contract, or other documents evidencing the legally-enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract of land for the establishment.
5. **Issuance of License.** For the purposes of this subsection, ‘applicant’ shall include the proposed licensee as well as all officers, directors, general partners, members, non-member managers, and other persons holding more than five (5) percent ownership in the proposed licensee. The Town shall approve the issuance of a license to the applicant within forty-five (45) days after receipt of the application unless the Town finds one or more of the following to be true:
- a. the applicant is under eighteen (18) years of age;
  - b. the applicant or the applicant's spouse is overdue in the payment of Town taxes, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to an adult-oriented establishment;
  - c. the applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application;
  - d. the applicant is residing with a person who has been denied a license by the Town to operate an adult-oriented establishment within the preceding twelve (12) months, or residing with a person whose license to operate an adult-oriented establishment has been revoked within the preceding twelve (12) months;
  - e. the premises to be used have not been approved by the Permit Issuer, Fire Department, or any other local, state, or federal official as being in compliance with applicable laws, regulations and ordinances;
  - f. the fee required by this ordinance has not been paid; or
  - g. any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.
6. **Hearing.** The Town Board, before revoking or suspending any license, shall give the operator at least ten (10) days' written notice of the charges against him and the opportunity for a public hearing before the Town Board or its designated committee.
7. **Transfer.** The transfer of a license or any interest therein, shall automatically and immediately revoke the license.
8. **Inspection.** Any applicant or licensee shall permit representatives of the County Sheriff's Department, County Health Department, Town Fire Department, Permit Issuer,

or other Town or state departments or agencies to inspect the premises of an adult-oriented establishment for the purpose of ensuring compliance with this ordinance and all relevant state and federal laws.

9. **Locational Restrictions.** An adult-oriented establishments shall be permitted within the Town of Empire only in the BD and ID Districts upon receipt of a Site Plan Permit and a Conditional Use Permit in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-77, and only if it meets all of the locational requirements set forth in below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is or is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult entertainment business is or is to be separated.

- a. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
- b. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple or other place of religious assembly.
- c. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years kindergarten through twelfth grade.
- d. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any day care home or family day care home.
- e. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public park or playground. For purposes of this Section, bike paths, trails, waterways and boat launches shall not be deemed to be a public park.
- f. Adult-oriented establishments shall be prohibited from locating within one thousand (1,000) feet of any other adult entertainment business.
- g. Adult-oriented establishments shall be prohibited from locating within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.

10. **Development Design Standards.**

- a. *Exterior.* It shall be unlawful for an owner or operator of an adult-oriented establishment:
  - i. to allow the merchandise or activities of the establishment to be visible from a point outside the establishment;
  - ii. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by this ordinance;
  - iii. to allow exterior portions of the establishment to be painted in a color other than a single color.
- b. *Signage.* The operator shall comply with Sec. 13-1-55, Signs. In addition, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

- c. *Booth/Room/Cubicle.* Any adult-oriented establishment having available for customers, patrons, or members, in a booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:
- i. Each booth, room, or cubicle shall be totally accessible to and from isles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock, or other control-type devices;
  - ii. Every booth, room, or cubicle shall meet the following construction requirements:
  - iii. Each booth, room or cubicle shall be separated from adjacent booths, rooms, or cubicles and any non-public areas by a wall;
  - iv. Have at least one side totally open to a public lighted isle so that there is an unobstructed view at all times of anyone occupying the same;
  - v. All walls shall be solid and without any openings, extended from floor to a height of not less than six (6) feet and be light-colored, non-absorbent, smooth textured and easily cleanable;
  - vi. The floor must be light-colored, non-absorbent, smooth textured and easily cleanable;
  - vii. The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
  - viii. Only one individual shall occupy a booth, room, or cubicle at any time. No occupants shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.

11. **Responsibilities of the Operator.** Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
12. **Minors.** It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished either a valid operator's drivers license or a valid personal identification certificate issued by a State reflecting that the person is eighteen (18) years of age or older.
13. **Hours of Operation.** An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 12 midnight, seven days a week.
14. **Nonconforming Adult-Oriented Uses.** Any business lawfully operating on the effective date of this ordinance that is in violation of the locational or structural configuration requirements of this ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period of not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

The non-conforming use is required to submit an application for a permit and otherwise comply with the requirements of this ordinance.

### **Sec. 13-1-44 Home Occupations**

1. **Purpose.** The purpose of Sec. 13-1-44 is to provide regulations for limited commercial uses conducted by a homeowner that are compatible with the surrounding properties. Any commercial uses of greater intensity than those contemplated by Sec. 13-1-44 shall require a rezoning or relocation of the commercial use to an appropriately-zoned site.
2. **Applicability/Restrictions.** A home occupation may be carried on as a permitted use within a dwelling or accessory building by a member of the family residing on the premises if it complies with the following standards:
  - a. The home occupation shall be clearly incidental and subordinate to the use of the premises as a residence or customary farming operation;
  - b. An accessory structure shall not be dedicated exclusively to the home occupation;
  - c. Only two persons who do not reside on the premises, but are employed in connection with the home occupation, may be present on the premises at one time;
  - d. No internal or external alterations to the residential structure are necessary in order to carry on the home occupation, including, but not limited to, the creation of a separate or exclusive business entrance;
  - e. No alterations in the exterior character or appearance of the premises are allowed, except that one nonilluminated sign that complies with the provisions of Sec. 13-1-55, Signs shall be allowed;
  - f. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference in excess of that generally associated with a residential use;
  - g. The home occupation shall not be of the type that will generate automobile traffic in excess of that generally associated with a residence or customary farming operation;
  - h. The number of motor vehicles dedicated exclusively for use in connection with the home occupation shall be limited to one;
  - i. The outdoor display or storage of goods, materials, supplies or equipment visible from other properties or a public right-of-way shall not be allowed;
  - j. If the nature of the home occupation attracts visitors (clients, customers, pupils, etc.) to the premises, such visits shall be on an appointment basis only.
  - k. Off-street parking shall be available for all visitors and any employee.
3. **Existing Home Occupations.** Nonconforming home occupations that were established legally prior to the enactment of this Ordinance may be continued as legal nonconforming home occupations.

### **Sec. 13-1-45 Campgrounds, Camping Resorts, Recreational Vehicle Parks**

1. **Purpose.** The Town Board finds that regulating the location and placement of campgrounds, camping resorts and recreational vehicle parks is necessary to ensure that the siting of such uses is aesthetically harmonious with the surrounding uses, preserves the general character and integrity of the neighborhood, and promotes the safety of Town residents.

2. **Applicability.** Sec. 13-1-45 is designed to regulate lands used for the purpose of temporary occupancy by tourists and campers for camping by the use of recreational vehicles, tents or temporary camping shelters, subject to the provisions set forth below.
3. **Definitions Related to Campgrounds.**

*CAMPGROUND:* Any publicly or privately owned parcel or tract of land accessible by a motor vehicle and which is designed, maintained, intended or used for the purpose of temporary occupancy by campers using recreational vehicles, tents or other temporary camping shelter and which is open to the public and designated as a camping area and set aside for free or paying camping purposes. The term Campground shall include camping resorts and recreational vehicle parks.

*CAMPSITE:* Any area within a campground delineated to be occupied by a single recreational vehicle, tent or other temporary camping shelter.

*RECREATIONAL VEHICLE:* A portable structure designed to be used as a temporary dwelling for travel, recreational or vacation uses. A Recreational Vehicle shall include those structures built directly on the chassis of a motor vehicle, designed to be mounted on the chassis of a motor vehicle or designed as an independent, wheeled vehicle to be towed by a motor vehicle.

*TEMPORARY OCCUPANCY:* For the purposes of Sec. 13-1-45, Temporary Occupancy means the occupying of a campsite by a recreation vehicle, tent or other temporary camping shelter for a cumulative period not to exceed sixty (60) days in any twelve (12) month period, whether or not such recreation vehicle, tent or temporary camping shelter is inhabited during any of such time period.
4. **Locational Restrictions.** Campgrounds shall comply with all of the following locational restrictions:
  - a. Campgrounds are permitted uses only in the BD District upon receipt of a Site Plan Permit and a Conditional Use Permit, in accordance with the procedures set forth in Sec. 13-1-74 and Sec. 13-1-77.
  - b. Campgrounds shall be prohibited in or within three hundred (300) feet of any zoning district that allows single-family, two-family or multiple-family dwellings as a permitted use.
5. **Development Design Standards.** A campground shall be designed and constructed to comply with the following standards:
  - a. **Minimum Lot Size.** The minimum lot size for a campground shall be five (5) acres.
  - b. **Minimum Front Yard for Campground.** See Sec. 13-1-57, Highway Setbacks.
  - c. **Minimum Side and Rear Yards for Campground.** Forty (40) feet.
  - d. **Parking.** See Sec. 13-1-53, Parking and Loading.
  - e. **Landscaping and Buffering.** See Exhibit 1 and Sec. 13-1-52, Landscaping and Buffering.
  - f. **Site Density and Spacing.** The maximum gross density of campsites shall be fifteen (15) sites per acre. Each campsite shall be clearly delineated.
    - i. **Minimum Campsite Dimensions.** Twenty-five (25) feet wide by forty (40) feet long per campsite.
    - ii. **Maximum Campsite Separation.** Each campsite shall be separated from other campsites by an area no less than fifteen (15) feet wide
6. **Compliance with Wisconsin Administrative Code.** Campgrounds shall comply with the requirements of Chapter HFS 178, Wisconsin Administrative Code, as may be amended from time to time.

7. **Camping Outside Designated Campgrounds; Limitations.** The use of recreational vehicles or other camping shelters for temporary habitation on any public or private lands within the Town other than designated campgrounds is limited to a cumulative period not to exceed thirty (30) days in any twelve (12) month period.

**Sec. 13-1-46 through Sec. 13-1-49 Reserved for Future Use**

**ARTICLE E: REGULATIONS APPLYING TO ALL DISTRICTS**

**Sec. 13-1-50 Nonconforming Uses, Structures and Lots**

1. **Purpose.** The purpose of this subsection is to provide for the gradual elimination of nonconforming uses and structures by allowing short-term maintenance and improvement, but not expansion of nonconformities.
2. **Applicability.** Sec. 13-1-50 shall apply to uses, structures and lots that become nonconforming as a result of the enactment of this Ordinance, or any subsequent amendments.
3. **Nonconforming Uses of Land.** A nonconforming use of land may be continued, provided that:
  - a. The use is not enlarged, increased, or extended to occupy a greater area of land or structure than was occupied on the date of adoption of this Ordinance;
  - b. If it is replaced by a conforming use, the nonconforming use may not thereafter be resumed;
  - c. If a nonconforming use ceases for a period of more than twelve (12) months the subsequent use of the land shall be conforming.
  - d. Changes in tenancy, ownership or management of a nonconforming use are allowed, provided there are no changes in the nonconforming use unless those changes bring the use into compliance.
4. **Nonconforming Structures.** A nonconforming structure may remain and be used, provided that:
  - a. The structure is not enlarged or altered so as to increase its nonconformity;
  - b. If moved, the structure shall be made to conform to regulations of this Ordinance; and
  - c. If the structure is damaged or destroyed by more than fifty (50) percent of its replacement value, as determined by the Permit Issuer, the structure must be reconstructed in compliance with the requirements for the zone in which it is located. When a structure is damaged or destroyed by fifty (50) percent or less of its replacement value, a nonconforming structure may be repaired or reconstructed and used as before the time of damage, provided a building permit is obtained and restoration is begun within one year from the date of destruction
5. **Nonconforming Lots.** Any nonconforming single lot, tract or parcel of land that was lawfully created and recorded prior to the adoption of this Ordinance may be used for the purposes permitted by this Ordinance, notwithstanding the minimum lot area, lot width and lot depth required. Any nonconforming lot in common ownership with a contiguous lot on the date of adoption of this Ordinance shall not be used for purposes permitted by this Ordinance unless the lot is combined with the contiguously owned lot and/or combined in a manner adequate to comply with the required minimum lot area, lot width and lot depth as specified for the zone in which the lot is located; provided, that this provision shall not apply to lots in final plats filed prior to the date of adoption of this Ordinance, or lots that contain a dwelling. The owner of combined lots shall apply for a

boundary line adjustment to remove boundary lines that are shared by contiguous lots, or to redraw boundary lines so that all contiguous lots become conforming lots.

### **Sec. 13-1-51 Accessory Uses and Structures**

1. **Purpose.** The authorization and limitation of specific accessory uses and structures in appropriate districts is necessary in order to limit the potential impacts of those uses and structures on neighboring properties.
2. **Applicability; Authorization.** Accessory uses and structures are permitted in any district in connection with any principal use lawfully existing within such district. If a use is allowed as a principal use, such use is also permitted as an accessory use with the same requirements as the principal use (e.g. a Conditional Use Permit may be required). The limitations set forth in this subsection do not apply to accessory uses and structures consistent with agricultural uses in the EAU, AT and A-1 Districts.
3. **Principal Use/Structure In Place.** No accessory structure shall be constructed or use initiated on a lot prior to the commencement of construction on the principal structure or the establishment of the principal use to which it is accessory. If the principal structure is not completed within three (3) years of receipt of the initial building permit, the Town Board may require removal of any accessory structures.
4. **Attached Accessory Buildings.** Where the accessory building is physically attached to the principal building, it shall be considered to be part of the principal building and subject to all bulk requirements applicable to the principal building.
5. **Detached Accessory Buildings.** Except as provided in Sec. 13-1-17, the following restrictions apply to detached accessory buildings.
  - a. Detached accessory buildings shall not occupy any portion of the required front yard.
  - b. Detached accessory buildings shall not be located within five (5) feet of the principal building or another accessory building.
  - c. Detached garages shall not be located within five (5) feet of a lot line. All other accessory structures must meet the yard/setback requirements of the applicable district.
  - d. Detached accessory buildings shall not exceed twenty feet in height. If a detached accessory building exceeds fifteen (15) feet in height it shall conform to all bulk requirements applicable to the principal building.
6. **Permitted Accessory Structures.** Permitted accessory structures include, but are not limited to, the following:
  - a. Private drives, driveways, parking lots, and detached garages, pole buildings, storage sheds, carports, canopies, loading docks, decks and patios.
  - b. Children's' playhouses, gazebos or similar structures.
  - c. Tennis courts, basketball courts or similar recreational facilities limited to use by the occupants of the principal building and their guests.
  - d. Earthen fill placed against the outer walls of the principal building to enhance the energy efficiency of the structure.
  - e. Dumpsters or other refuse containers on commercial or industrial properties, provided that such facilities are located in the rear of the principal building and are sufficiently screened to L3 or F2 standards in accordance with Sec. 13-1-52, Landscaping and Buffering.
  - f. Radio, amateur radio, dish and television antennas not exceeding sixty (60) feet in height, provided:
    - i. Roof-mounted antennas in residential zones shall not extend higher than thirty (30) feet above the peak of the roof;

- ii. The antenna, including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize its visible impact on surrounding properties and from public rights-of-way.
- iii. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant.
- g. Fences, subject to the following restrictions:
  - i. Setback Requirements. Fences may be placed within the front, side or rear yard, except that solid fences greater than three (3) feet in height shall not be placed anywhere in the front setback area as extended to the side lot lines.
  - ii. Materials. Barbed wire and electric fences are prohibited except in the EAU, AT and A-1 districts, and as part of security fences in other districts, provided that, when used as part of a security fence, barbed wire shall not be less than seven (7) feet above ground level.
  - iii. Sound Barrier/Privacy Fences. Sound barrier/privacy fences built along back or side yard lot lines to prevent sound penetration from abutting roadways shall not be more than eight (8) feet in height in agricultural and residential districts and not more than twelve (12) feet in height in business and industrial districts.
  - iv. Vision Clearance. All fences shall be erected so as to comply with Sec. 13-1-56(7), Vision Clearance Standards.

### **Sec. 13-1-52 Landscaping and Buffering**

1. **Purpose.** The Town recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to:
  - a. Promote the reestablishment of vegetation in developed areas for aesthetic, health, and wildlife reasons;
  - b. Establish and enhance a pleasant visual character that recognizes aesthetics and safety issues;
  - c. Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
  - d. Unify development, and enhance and define public and private spaces;
  - e. Promote the retention and use of existing vegetation;
  - f. Aid in energy conservation by providing shade from the sun and shelter from the wind;
  - g. Restore vegetation to areas disturbed by grading or construction;
  - h. Mitigate for loss of natural resource values.
2. **Applicability.** This Section consists of a set of landscaping and screening standards and regulations for use throughout the Town. The regulations address materials, placement, layout, and timing of installation.
3. **Landscaping and Screening Standards.** Sec. 13-1-52(3)(a)-(g) state the presumptive levels of landscaping and screening standards to be applied to proposed land uses throughout the Town. “Low impact,” “Medium impact” and “High impact” refer to a particular non-residential use’s impact on surrounding property. The impact rating for uses is listed in Exhibit 1. The landscaping standards and, where appropriate, the depth of the landscaping or screening (buffer width) to be required of the proposed use are set

forth in Exhibit 4. The buffer width may be included within the required setback. The Town Board recognizes that because of the wide variety of types of developments and the relationships between them found in a rural setting, it is neither possible nor advisable to establish inflexible landscaping and buffering standards. The standards set forth in Sec. 13-1-52(3)(a)-(g) below are in hierarchical order; standard L1 is presumed to be the least-intensive standard, while F2 is presumed to be the most intensive. The decision-making body may permit deviations from the presumptive requirements of Exhibit 4, by allowing either less-intensive or requiring more intensive landscaping and buffering whenever it is determined that such deviations will satisfy the purposes set forth in Sec. 13-1-52(1) above. Circumstances that may warrant deviations from these standards include, but are not limited to, lot sizes that result in greater separation of uses, or objectionable impacts greater than those normally associated with a given use.

- a. L1, General Landscaping. The L1 standard is a landscape treatment for open areas. It is intended to be applied in situations where distance is used as the principal means of separating uses or development, and landscaping is required to enhance the area in-between. While primarily consisting of ground cover plants, it also includes a mixture of trees, high shrubs, and low shrubs. The L1 standard has two different requirements for trees and shrubs. Where the area to be landscaped is less than thirty (30) feet deep, the standard is one tree per thirty (30) linear feet. Where the area is thirty (30) feet deep or greater, the requirement is one tree per 800 square feet and either two (2) high shrubs or three (3) low shrubs per four hundred (400) square feet of landscaped area. The shrubs may be grouped with the trees. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- b. L2, Low Screen. The L2 standard is a landscape treatment that uses a combination of distance and low level screening to separate uses or development. The standard is applied where a low level of screening is adequate to soften the impact of the use or development, or where visibility between areas is more important than a total visual screen. The L2 standard requires enough low shrubs to form a continuous screen three (3) feet high. In addition, one tree is required per 30 lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- c. L3, High Screen. The L3 standard is a landscape treatment that uses screening to provide the physical and visual separation between uses or development. It is used in those instances where visual separation is required. The L3 standard requires enough high shrubs to form a screen six (6) feet high and ninety-five (95) percent opaque year around. In addition, one tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- d. L4, High Wall. The L4 standard is intended to be used in special instances where extensive screening of both visual and noise impacts is needed to protect abutting sensitive uses in areas and where there is little space for separation. The L4 standard requires a six-foot high masonry wall along the interior side of the landscaped area. One tree is required per thirty (30) lineal feet of wall or as appropriate to provide a tree canopy over the landscaped area. In addition, four high shrubs are required per thirty (30) lineal feet of wall. Grass or other ground cover plants must fully cover the remainder of the landscaped area.

- e. L5, High Berm. The L5 standard is intended to be used in special instances where extensive screening of both visual and noise impacts is needed to protect abutting sensitive uses, and where it is desirable and practical to separate a use by distance as well as sight-obscuring materials. The L5 standard requires a berm between four (4) and six (6) feet high. If the berm is less than six (6) feet high, low shrubs that meet the L2 standard must be planted on top of the berm to assure that the overall screen height is 6 feet. In addition, one tree is required per thirty (30) lineal feet of berm or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- f. F1, Partially Sight-Obscuring Fence. The F1 fence standard provides a tall, but not totally blocked visual separation. The standard is applied where a low level of screening is adequate to soften the impact of the use or development, or where visibility between areas is more important than a total visual screen. It is applied in instances where landscaping is not necessary and where nonresidential uses are involved. Fences must be six (6) feet high and at least fifty (50) percent sight-obscuring. Fences may be made of wood, metal, bricks, masonry or other permanent materials.
- g. F2, Fully Sight-Obscuring Fence. The F2 fence standard provides a tall and complete visual separation, and is intended to be used in special instances where complete screening is needed to protect abutting uses, and landscaping is not practical. It is usually applied in nonresidential situations. Fences must be six (6) feet high and one hundred (100) percent sight-obscuring. Fences may be made of wood, metal, bricks, masonry or other permanent materials.

**EXHIBIT 4  
MINIMUM BUFFERING/LANDSCAPING REQUIREMENTS**

Proposed Use	Existing Adjacent Use					
	Agriculture	Single- Two-family	Subdivisions (1)	Low Impact	Medium Impact	High Impact
Agriculture	None	None	None	None	None	None
Single-, Two-family	None	None	None	None	None	None
Subdivisions (1)	L1	L1	None	10 ft./L2	20 ft./L3	25 ft./L3
Low Impact	L1	10 ft./L2	10 ft./L2	None	10 ft./L2	20 ft./L3
Medium Impact	10 ft./L1	20 ft./L3	20 ft./L3	10 ft./L2	None	10 ft./L2
High Impact	10 ft./L2	20 ft./L3	20 ft./L3	20 ft./L3	10 ft./L2	None

(1) Landscaping required around perimeter of subdivision (not individual lots).

When indicated by shading, standard reflects the maximum that may be required. If all or part of the landscaping or buffer have been provided on the adjacent property, the proposed use need provide only that amount which has not been provided on the adjacent property.

**4. Plant Materials.**

- a. *Shrubs and Ground Cover.* All required shrubs must be of sufficient size and number to meet the required standards within three (3) years of planting. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants. Sod or existing grass may be utilized as ground cover.
- b. *Trees.* Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of one and three-fourths (1  $\frac{3}{4}$ ) inches, measured five (5) feet above the ground, and have a minimum height of eight (8) feet. Evergreen trees at the time of planting must be fully branched and a minimum of six (6) feet in height. In the buffer area between abutting properties, no tree which could be expected to exceed fifteen (15) feet in height at maturity shall be planted within fifteen (15) feet of a property line.
- c. *Existing Vegetation.* Existing landscaping or natural vegetation may be used to meet the standards, if protected and maintained during the construction phase of the development. When the existing trees are at least twelve (12) inches in diameter, measured five (5) feet above the ground, they may count triple towards meeting the tree requirements of a landscaping standard.
- d. *Selection of Materials.* Landscape materials should be selected and sited to produce a hardy and drought-resistant landscape area. Generally, plant materials should be those that will withstand the climate conditions of Hardiness Zone 4.
- e. *Exceeding Standards.* Landscaping materials that exceed the standards may be substituted for the minimums so long as all fence or vegetation height limitations are met, including the vision clearance standards of this Ordinance.
- f. *Complying with Standards.* It is the applicant's responsibility to show that the landscaping materials proposed will comply with the regulations of this Ordinance.

5. **Installation, Maintenance and Protection.** Plant materials must be installed to current nursery industry standards. Plant materials must be supported when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires or other measures must be removed as soon as the plant can support itself. Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted. All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas.
6. **Landscaped Areas on Corner Lots.** All landscaped areas on corner lots must meet the standards of Sec. 13-1-57(7), Vision Clearance Standards. If high shrubs or other sight-obscuring screening is required by a provision of this Ordinance, low screening must be substituted within vision clearance areas.

7. **Landscape Plans.** Landscape plans must be submitted showing all landscaped areas. Plans must be drawn to scale and show type, size, number, and placement of materials. Materials may be identified with both their scientific and common names.
8. **Completion of Landscaping.** The installation of any required landscaping may be deferred during the summer or winter months to the next planting season, but never for more than one year. In this instance, a Temporary Occupancy Permit may be issued prior to the installation of all required landscaping. In all instances, all required landscaping must be installed prior to the issuance of a final Occupancy Permit.

### **Sec. 13-1-53 Parking and Loading**

1. **Purpose.** This subsection establishes the standards for the amount, location, and development of motor vehicle parking, and standards for on-site loading areas. Other Town Ordinances may regulate other aspects of parking and loading. The regulations controlling parking have the following specific objectives:
  - a. Provide safe, efficient circulation and movement of motor vehicles;
  - b. Direct traffic in parking areas;
  - c. Shade and cool parking areas;
  - d. Provide a pedestrian access that is protected from auto traffic;
  - e. Improve and soften the appearance of parking areas;
  - f. Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones; and
  - g. Decrease airborne and waterborne pollution.
2. **Applicability.** The regulations of this Section apply to all parking areas in all zones. (3) Occupancy. All required parking areas must be completed and landscaped prior to occupancy of any structure except as provided in Sec. 13-1-52, Landscaping and Screening.
3. **Use of Required Parking Spaces.** Required parking spaces must be available for the use of residents, customers, or employees of the use. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations as allowed by Sec. 13-1-53(7). Required parking spaces may not be used for the storage of goods or inoperable vehicles.
4. **Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use. Required parking spaces for nonresidential uses must be located on the site of the use or in parking areas whose closest point is within 300 feet of the site.
5. **Required Parking Spaces.** The minimum or maximum number of parking spaces for all use categories is stated in Exhibit 5. The standards in Exhibit 5 apply unless specifically superceded by other portions of this Ordinance. Alternative standards to those shown in Exhibit 5 may be accepted if the applicant demonstrates that such standards better reflect local conditions. Uses not specifically listed in Exhibit 5 shall be treated as a listed use of a similar nature. Since the purpose of required off-street parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses that might locate at the site over time, the required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.
  - a. The number of parking spaces is computed based on the primary use of the site except as stated in Paragraphs (b) and (c) below.

- b. When there are two or more separate uses on a site (such as a home occupation), the required parking for the site is the sum of the required parking for the individual uses. For joint use parking, see Sec. 13-1-53(7) below.
  - c. When a use has more than twenty (20) percent of its floor area in a distinct function (ie. office, warehouse, or retail), required parking is calculated separately for each function. An example would be a 40,000 square foot use with a 10,000 square foot office area and a 30,000 square foot warehouse. The required parking would be computed separately for the office and warehouse.
6. **Joint Use Parking.** Joint use of required parking spaces may occur where two or more uses on the same or adjacent sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the Permit Issuer as part of a Building Permit application or Occupancy Permit application:
- h. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
  - i. The location and number of parking spaces that are being shared;
  - j. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
  - k. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.
7. **Residential Driveway Parking.** Driveway surface areas shall count as off-street parking spaces for the unit served by the driveway if there is an open surface area measuring at least one hundred-eighty (180) square feet and no portion of an automobile parked in the area will extend into public right-of-way.
8. **Enlargement of Use.** Whenever a non-residential structure or use is enlarged by twenty-five (25) percent or more of the unit used to calculate parking spaces (e.g. gross floor area, seats, employees, etc) such new parking space requirements must be met.
9. **Parking Development Standards.** The following development standards promote **vehicle areas that are safe and attractive for motorists and pedestrians. These standards** apply to all vehicle areas whether required or excess parking.
- a. *Parking Space Dimensions.* The minimum size of a required parking space is nine (9) feet by eighteen (18) feet. Where nonrequired parking is provided on a site, at least one nonrequired parking space must meet the minimum size for required spaces. A portion of a standard parking space may be landscaped instead of paved. The landscaped area may be up to two (2) feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space. Landscaping must be ground cover plants.
  - b. *Disabled Parking.* The following disabled person parking standards and access standards are regulated through Uniform Building Code as adopted by the Town
    - i. Dimensions of disabled person parking spaces and access aisles;
    - ii. The minimum number of disabled person parking spaces required;
    - iii. Location of disabled person parking spaces and circulation routes;
    - iv. Curb cuts and ramps including slope, width and location;
    - v. Signage and pavement markings.

- c. *Parking Aisle Dimensions.* Minimum width of aisles providing access to stalls for one-way traffic shall be eleven (11) feet for thirty-degree (30°) angle parking and twenty (20) feet for ninety-degree (90°) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty four (24) feet.
- d. *Surfacing.* All driveways and parking areas, other than those for residential and agricultural use, must be surfaced with a durable surface consisting of concrete or asphalt or of compacted gravel or crushed stone.
- e. *Access.* All parking areas must be designed to allow vehicles to enter and exit the roadway in a forward motion. However, this does not apply to parking areas with one or two spaces and whose only access is on a local service street.
- f. *Setbacks and Perimeter Landscaping.* Perimeter landscaping of parking areas must meet at least the L2 standard. The landscaping requirements also apply to parking area driveways. Parking areas must meet the setback requirements of the underlying zoning district.
- g. *Parking Area Interior Landscaping.* All hard-surfaced parking areas with more than ten (10) spaces must provide interior landscaping complying with one or a mix of both the Options stated below. Trees and shrubs must be protected from potential damage by vehicles through the use of bollards, curbs, wheel stops, or other physical barriers. Interior parking area landscaping must be dispersed throughout the parking area. Some trees may be grouped, but the groups must be dispersed. Perimeter landscaping may not substitute for interior landscaping. Parking areas that are thirty (30) feet or less in width, and all non-hard surfaced parking areas may locate their interior landscaping around the edges of the parking area. Interior landscaping placed along an edge is in addition to any required perimeter landscaping.
  - i. Option 1. Interior landscaping must be provided at the rate of ten (10) square feet per stall. At least one tree must be planted for every two hundred (200) square feet of landscaped area. Ground cover must completely cover the remainder of the landscaped area.
  - ii. Option 2. One tree must be provided for every six (6) parking spaces. If surrounded by cement, the tree planting area must have a minimum dimension of four (4) feet. If surrounded by asphalt, the tree planting area must have a minimum dimension of three (3) feet.

**EXHIBIT 5  
REQUIRED PARKING**

Use	Required Off-Street Parking Spaces
<b>Residential (per Dwelling Unit)</b>	
Single- and Two-Family	
1-3 Bedrooms	2 per dwelling unit
4 or more Bedrooms	3 per dwelling unit
Multiple-Family	1 per 1 BR unit, 2 per 2+ BR units, plus 1 per 4 units
Mobile/Manufactured Home Parks	2 per home site, plus 1 per 4 home sites
<b>Non-Residential</b>	
Automobile Service or Repair	2 spaces, plus 1 per 100 square feet GFA
Bed and Breakfast	1 per guest room
Bowling Alley	4 per lane
Campgrounds	3 per every 2 campsites

Car Wash	1 per each washing and vacuuming bay
Church/Synagogue	1 per 4 seats
Convenience Store	4 spaces, plus 1 per 250 square feet GLA over 1,000 sq. ft.
Financial Institutions	1 per 300 square feet GFA
Funeral Home	1 per 3 seats
Hotel and Motel	1 per guest room plus 10 per 1,000 sq. ft. GFA meeting area
Library	1 per 300 square feet GFA
Offices (Medical and Professional)	1 per 250 square feet GFA
Research	1 per 1,000 square feet GFA
Restaurant	
Dine-in	1 per 3 seats
Fast-food Establishments	1 per 30 square feet GFA
Retail Establishments (General)	1 per 250 square feet GFA
Service Establishments (General)	1 per 300 square feet GFA
Storage Areas	1 per 5,000 square feet GLA
Tavern	1 per 3 seats
Theater	1 per 3 seats
Manufacturing, Industrial (General)	1 per 2 employees on maximum working shift

GFA = Gross Floor Area

GLA = Gross Leasable Area

10. **Loading Area Requirements.** It is the intent of this Section to provide adequate on-site areas to allow for the loading and unloading of vehicles, to prevent traffic hazards and allow for the free flow of traffic on public rights-of-way. On every lot on which a business, commercial or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated in Exhibit 6 for the loading and unloading of vehicles off the public right-of-way.
11. **Location and Screening of Loading Areas.** Required on-site loading space shall be located on the same lot as the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two streets or require any vehicle to back into a public street or road. All loading areas shall be landscaped to at least the L3 level.
12. **Loading Space Dimensions.** Each on-site loading space shall have a minimum width of twelve (12) feet, a minimum length of forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. For funeral homes, the dimensions shall be reduced to a width of ten (10) feet, a length of twenty-five (25) feet, and a vertical clearance of eight (8) feet.
13. **Multiple or Mixed Uses.** Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such minimum, then on-site loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

**EXHIBIT 6  
LOADING SPACE REQUIREMENTS**

Use	Gross Floor Area (GFA)	Required Spaces
Retail, wholesale, warehouse, service, manufacturing and industrial establishments	2,000 – 10,000	1

	10,001 – 20,000	2
	20,001 – 40,000	3
	40,001 – 60,000	4
	Each add'l 40,000	1
Hotels, motels, medical and professional offices and places of public assembly	5,000 – 10,000	1
	10,001 – 50,000	2
	50,001 – 100,000	3
	Each add'l 25,000	1
Funeral homes	2,500 – 4,000	1
	4,001 – 6,000	2
	Each add'l 10,000	1

### Sec. 13-1-54 Off-Site Impacts of Nonresidential Uses

1. **Purpose.** The regulations of this subsection are designed to protect residential structures from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past.
2. **Applicability/Exemptions.** Nonresidential uses in all zones that cause off-site impacts to residential uses are required to meet the standards of this Ordinance. Sec. 13-1-54 does not apply to machinery, equipment, and facilities that were at the site and in compliance with existing regulations on the effective date of this Ordinance. Any new or additional machinery, equipment, and facilities must comply with the standards of this Ordinance. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site.
3. **Relationship to Other Regulations.** The off-site impact standards are in addition to all other regulations of the Town. The standards do not replace or supercede the provisions of Chapter 823, Wisconsin Statutes (Wisconsin “Right-to-Farm” Law), relevant regulations set forth in the Wisconsin Administrative Code, relevant county regulations, or standards such as the Uniform Building Code. These standards do not supercede or prohibit the enforcement of other Town of Empire ordinances enacted to regulate nuisances. These regulations do not apply to the performance of customary farming operations.
4. **Documentation in Advance.** The Permit Issuer is empowered to require advance documentation that a proposed use will conform to these standards. At the Permit Issuer’s discretion, any of the following additional information may be required of the applicant prior to approving a building permit:
  - a. *Use Description.* A description of the use or activity regarding processes, materials used, storage, waste disposal, types of machinery and other such items as it relates to off-site impacts. However, the applicant is not required to reveal any trade secrets which would cause any secret manufacturing procedure, compound or product to become public knowledge and available to competitors;

- b. *Abatement Devices.* An explanation of any mechanisms or techniques which are proposed to restrict any hazardous or nuisance effects, including the type and location of any abatement devices and/or recording instruments to measure conformance with the required standard; and
  - c. *Expert Evaluation.* An evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed activity can achieve the off-site impact standard or standards in question.
- 5. **Measurement.** Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings. If the Town does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another state or county agency or may contract with an independent expert to perform such measurements. The Town may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source. If the Town contracts to have measurements made and no violation is found, the Town will bear the expense, if any, of the measurements. If a violation is found, Town expenses will be charged to the violator. Nonpayment of the costs is a violation of this Ordinance, and enforced through the provisions of Sec. 13-1-79, Zoning Ordinance Enforcement.
- 6. **Noise.** No operation or activity shall transmit any noise exceeding 70 dBA from 7:00 a.m. to 10:00 p.m. and 60 dBA from 10:00 p.m. to 7:00 a.m. The following are exempt from these regulations:
  - a. Noises from temporary construction or maintenance activities during daylight hours;
  - b. Noises from emergency, safety or warning devices;
  - c. Noises not directly under the control of the property owner.
- 7. **Vibration.** Continuous, frequent, or repetitive vibrations that exceed 0.002g peak may not be produced. In general, this means that a person of normal sensitivities should not be able to feel any vibrations. The following are exempt from these regulations:
  - a. Vibrations lasting less than five (5) minutes per day;
  - b. Vibrations from temporary construction or maintenance activities and vehicles which leave the site; however, vibrations from primarily on-site vehicles and equipment are not exempt.  
Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.
- 8. **Odor.** Continuous, frequent, or repetitive odors may not be produced. The odor violation threshold is the point at which an odor is detectable at the property line. However, an odor detected for less than 15 minutes per day is exempt. Odor measuring equipment may be used for measurements when there are doubts about the level of odor. Scentometer reading No. 0 is generally the point at which an odor is detectable. Scentometer No. 0 is 1 to 2 dilutions of clean air.
- 9. **Glare, Lighting.** Glare is illumination caused by all types of lighting and from high temperature processes such as welding or metallurgical refining. Glare may not cause illumination, either directly from the source, or indirectly from reflection, visible from another property. All light sources shall be hooded or shielded so that the lamp is not visible from adjacent properties or public rights-of-way. Strobe lights are not permitted in any cases. However, typical farm yard lights are exempt. Light measuring equipment may be used for measurements when there are doubts about the level of illumination. 0.5 foot candles of light, measured at the property line, is the presumptive level of violation.

## Sec. 13-1-55 Signs

1. **Purpose.** The purposes of regulating signage in the Town of Empire are to:
  - a. Encourage the effective use of signs as a means of communication;
  - b. Maintain and enhance the aesthetic environment;
  - c. Improve pedestrian and traffic safety by providing adequate directional signage and limiting distracting signage in transportation areas;
  - d. Minimize the possible adverse effect of signs on nearby public and private property;
  - e. Enable the fair and consistent enforcement of these sign regulations.
  - f. All sign regulations set forth in this Ordinance are intended to be content-neutral.
2. **Applicability/Exemptions.** A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with the requirements of this Section. The following signs shall be exempt from regulation under this Section:
  - a. Public notices or warnings required by a valid and applicable federal, state or local law, regulation or ordinance;
  - b. Official government traffic control signs, such as Stop, Yield, or similar signs which meet Department of Transportation standards;
  - c. Community information signs;
  - d. Signs or numbers identifying the street address of a building;
  - e. Works of art that do not contain or include a commercial message, however, sign structures displaying works of art shall be subject to the requirements of this Ordinance;
  - f. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot on which such sign is located.

### Definitions Related to Signs.

**ABANDONED SIGN:** A sign structure that does not contain a sign for one hundred-twenty (120) continuous days or more.

**AGRICULTURE SIGN:** A sign advertising agricultural products being sold on the farm on which such products are produced.

**APARTMENT SIGN:** An on-premises sign that provides identification for a multi-family building or buildings.

**AUXILIARY SIGN:** A sign attached to the primary sign that provides supplemental information such as services, price, hours of operation, directions, warning, etc.

**AWNING:** A retractable fabric, plastic or other semi-permanent awning, canopy or other structural protective cover over a door, window, entrance or outdoor service area. (See also MARQUEE).

**AWNING SIGN:** A sign incorporated into or attached to an awning. (See also MARQUEE SIGN).

**BACK-TO-BACK SIGN:** Signs that are mounted back to back with the sign faces in opposing directions or on a 'V-shaped' frame with an internal angle of less than 40 degrees. 'V-shaped' frame signs with an internal angle larger than 40 degrees shall be considered side-by-side signs.

**BANNER:** A sign, with no enclosing framework, made of fabric, plastic or other nonrigid material.

**COMMUNITY INFORMATION SIGN:** A municipally-owned sign which displays information of interest to the general community regarding public places, events or activities.

**CONSTRUCTION SIGN:** A temporary sign which describes or identifies a demolition or construction project taking place on the premises.

**CROP SIGN:** A temporary sign which designates a variety, brand, or provides other identification of an agricultural crop, fertilizer, herbicide or pesticide that is being grown or used at a specific location.

**DEVELOPMENT SIGN:** An on-premises sign that directs attention to the pending development of a property

**DIRECTIONAL SIGN:** An on-premises sign that provides only directions for pedestrian or vehicular traffic, e. g., enter, exit, parking, or location of any place or area on the same premise.

**DOUBLE-DECKED SIGN:** Freestanding signs that are mounted one above the other, not including group signs.

**ELECTRONIC SIGN:** An advertising sign whose message may be changed by electronic process.

**FARM SIGN:** An on-premises sign identifying a farm by its name or by the farmer's name.

**FREESTANDING SIGN:** A sign on a frame, pole, pylon, concrete or masonry foundation or other support structure that is not attached to any building.

**GARAGE SALE SIGN:** A sign advertising the occasional sale of personal property items. A garage sale sign does not include signs advertising business products or produce.

**GRAPHIC SIGN:** A sign that is an integral part of a building facade. The sign is painted directly on or otherwise permanently embedded in the facade.

**GROUP SIGN:** An on-premises, freestanding sign displaying the names of a group of businesses that are located in the same locale such as a shopping center, office park, commercial or industrial park.

**HOME OCCUPATION SIGN:** A sign that advertises a permitted home occupation.

**LOGO:** An emblem, symbol or trademark identification placed on signs.

**MARQUEE:** Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather. (See also AWNING).

**MARQUEE SIGN:** A sign incorporated into or attached to a marquee. (See also AWNING SIGN).

**MOBILE OR PORTABLE SIGN:** A sign mounted on a frame or chassis designed to be easily relocated and not permanently affixed to the ground or other structure.

**MOBILE HOME PARK SIGN:** A permanently installed sign located on the mobile home park property that identifies the mobile home park name.

**MONUMENT SIGN:** A freestanding sign where the base of the sign structure is on the ground or a maximum of twelve (12) inches above the adjacent grade. The width of the top of the sign structure may be no more than one hundred-twenty (120) percent of the width of the base.

**OFF-PREMISE ADVERTISING SIGN:** A sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered somewhere other than upon the premises where the sign is located, not including off-premise REAL ESTATE SIGNS, AGRICULTURAL SIGNS, or GARAGE SALE SIGNS.

**ON-PREMISE ADVERTISING SIGN:** A sign which directs attention to a business, commodity, service, items or entertainment sold, offered or conducted upon the premises where the sign is located.

**POLITICAL SIGN:** A sign carrying a message related to a political party, a candidate for public office or a political issue.

**PUBLIC, SEMI-PUBLIC, INSTITUTIONAL SIGNS:** A permanently installed on-premises sign that identifies any "Public, Semi-Public, Institutional" use, as those uses

are specified in Exhibit 1: District Use and Impact Classifications.

**PROJECTING SIGN:** An on-premises advertising sign, other than a wall sign that is attached to and projects out from a wall or a building.

**REAL ESTATE SIGN:** A sign that provides identification of property that is for lease, rent or sale.

**ROOF SIGNS:** A sign constructed wholly on and over the roof of a building, supported, in part, by the roof structure, and extending vertically above the highest portion of the roof. Signs located on roofs that are integral or essentially integral parts of the roof and that do not extend above the highest portion of the roof (such as signs located on mansard roofs) shall be regulated as wall signs.

**SIGN:** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol or writing to communicate information of any kind to the public.

**SIGN:** Any visual outdoor advertising sign, display, device, structure, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing which, or the display area of which, is designed, intended, or used to advertise, inform, persuade, or otherwise communicate, any part of the communicative contents of which is visible from any place on a public right-of-way or other public property.

**SIGN COPY AREA:** The total area of a sign face which may be used for display of advertising, message announcement, etc.

**SIGN FACE:** The total surface of a sign including the trim and copy area.

**SIGNABLE WALL AREA:** The designated area of the wall of a building, up to the roof line, which is free of windows and doors or major architectural detail.

**SUBDIVISION SIGN:** A permanently installed sign located on the subdivision property that identifies the subdivision name.

**TEMPORARY SIGNS:** Signs which are installed for a limited time period for the purpose of advertising a forthcoming event, e. g., retailer's signs temporarily displayed for the purpose of informing the public of a sale or special offer, garage sale signs, church or club event signs, etc. A permanently mounted sign shall not be considered as temporary even though the message displayed is subject to periodic changes.

**TRIM:** A separate boarder or framing around the copy area of a sign.

**V-SHAPED FRAME:** A sign support structure that will accommodate two or more signs mounted on the same structure, where the internal angle separating at least two of the signs is greater than forty-five (45) degrees.

**WALL SIGN:** A sign mounted on and parallel to a building wall or other vertical building surface that projects no more than eighteen (18) inches from such surface.

**WINDOW SIGN:** A sign placed inside a window or upon the window panes or glass that is visible from the exterior of the window.

3. **Permitted Signs.** Exhibits 7 and 8 set forth the types of signs permitted in each zoning district. Unless otherwise noted, All signs not expressly permitted by Exhibits 7 or 8, or exempt from regulation under Sec. 13-1-55(2) above, are prohibited. Prohibited signs include, but are not limited to double-decked signs; inflatable signs and tethered balloons; mobile or portable signs for other than temporary use; projecting signs; roof signs; and signs incorporating beacons, flashing or rotating lights.

#### **EXHIBIT 7: AREA, HEIGHT AND NUMERICAL LIMITATIONS ON SIGNS**

#### **EXHIBIT 8: AREA AND NUMERICAL LIMITATIONS ON PARTICULAR SIGNS PERMITTED IN BD AND ID DISTRICTS ONLY**

1. **Restrictions by Zoning District.** Exhibits 7 and 8 (and footnotes thereto) also set forth restrictions related to the area, height and number of permitted signs by zoning district. The characteristics of all signs must conform to those set forth in Exhibits 7 and 8, and any additional limitations for specific circumstances listed in Sec. 13-1-55(7) below.
2. **Calculation of Sign Copy Area.** The total sign copy area of all on-premise signs related to a business shall not exceed the maximum permitted sign copy area set forth in Exhibit 7. For the purposes of these regulations, sign copy area shall be calculated in the following manner:
  - a. The copy area of signs that have a border or trim shall consist of the entire surface area of the sign on which copy could be placed.
  - b. Copy area of a sign whose message is applied to a background which provides no face, border or trim shall be the area of the smallest rectangle which can encompass all words, letters, figures, emblems and other elements of the sign message.
  - c. The supporting structure or bracing of a sign shall not be counted as a part of sign copy area unless such structure or bracing is made a part of the sign's message.
3. **Specific Regulations for Individual Signs.** The regulations contained in this Section shall apply to signs in all zoning districts unless otherwise indicated. The regulations set forth in this subsection supplement the specific requirements set forth in Exhibits 7 and 8.
  - a. Auxiliary signs may only provide supplemental information such as services, price, hours of operation, directions, warning, etc., and may not include any other information regarding product lines. The logo or name of the related business may be included.
  - b. Construction signs shall identify the project and may include the names of the contractors, engineers or architect, or products being used in the construction of a building but only during the time that construction or development is actively under way.
  - c. The copy area of back-to-back monument or freestanding signs shall be computed using the copy area of only one side. The side used shall be the larger of the two sides.
  - d. The copy area of monument or freestanding signs utilizing a V-shaped frame shall be computed by summing the copy area of all sides supported by the frame.
  - e. Directional signs, not more than four (4) square feet in area, are permitted in all districts. The number of directional signs permitted per lot shall be the minimum necessary to provide adequate information for safe pedestrian and vehicular movement.
  - f. Farm signs are limited to on-premise signs identifying a farm by its name or by the farmer's name and may contain additional historical information such as date of founding or century farm designation or name or logo of the sign sponsor.
  - g. Logos may contain only the emblem or name of the business located on the same property or, on farm and crop signs, the name or emblem of the business sponsoring the signs. Logos may not be larger than fifty (50) percent of the sign copy area and shall be included within said copy area.
  - h. Permanent political signs installed on underlying structures capable of being classified as specific types of signs, such as awning signs, freestanding signs, monument signs, etc. shall comply with all regulations applicable to the underlying sign structure.
  - i. Temporary political signs which promote a particular candidate or candidates for a particular election, may be erected and maintained otherwise unrestricted by this ordinance, except that all such signs shall conform to the vision clearance standards, shall not be erected in a highway right-of-way, shall not exceed thirty-

two (32) square feet in sign area, shall not be erected more than seventy (70) days prior to the election and shall be removed not later than ten (10) days after the election.

- j. Each primary building housing a separate unaffiliated business on a parcel is allowed to have the total related signs as permitted by this ordinance, subject to total sign copy area restrictions (i.e., each building in a complex shall be entitled to the total number of signs). Businesses located in one building must utilize one group sign only.

**4. Calculation Of Height Regulations.**

- a. Awning Signs. The height will be measured from base of the building below the awning to the top of the awning.
- b. Freestanding Signs. The height will be measured from the elevation of the centerline of the adjacent road to the top of the sign.
- c. Marquee Signs. The height will be measured from base of the building below the marquee to the top of the marquee.
- d. Monument Signs. The height shall be measured from ground level beneath the sign to the top edge of the sign.
- e. Wall Signs. Wall signs shall not extend beyond the end of any wall or other surface to which they are mounted, nor shall they project more than eighteen (18) inches from its surface. For a wall sign, the height shall be measured from the base of the building below the sign to the top of the sign face. The top of the sign may not be higher than the top of the wall on which it is mounted.

**5. Illumination; Other Design Requirements.**

- a. Illuminated signs are prohibited in the A-1 and R-1 Districts, except for freestanding apartment signs. Illumination of signs must be designed so that the lighting element is shielded from view from any adjacent residence and from vehicular traffic. Neon and fiber-optic lighting and electronic signs are exempt from this regulation.
- b. No sign shall use any word, phrase, symbol, shape, form or character in such manner as to interfere with moving traffic, including signs that incorporate typical street-type or traffic control-type sign designs and colors. No sign may be installed at any location where by reason of its position, wording, illumination, size, shape or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any official traffic control sign, signal or device.
- c. Except for time and temperature signs and electronic signs, no fluttering, undulating, rotating, or other moving signs shall be permitted.
- d. Plantings or structures that exceed thirty (30) inches in height are prohibited beneath freestanding signs.
- e. Sign trim is permitted on all signs and may be installed around the outside of the sign copy area. The square foot area of the trim shall not be greater than twenty-five (25) percent of the permitted copy area of the sign.
- f. No sign, temporary or otherwise, shall be affixed to a tree or utility pole, or be painted on a stone.

**6. Setbacks; Other Locational Regulations**

- a. All signs shall be located a minimum of five (5) feet from the road right-of-way, except as otherwise provided by this ordinance.
- b. All signs shall be located a minimum of five (5) feet from side and rear lot lines.
- c. On-premise freestanding or monument signs advertising commercial businesses may be located no farther than two hundred (200) feet from the primary building of the business advertised.

- d. When determining distance between signs or distance from lot for purposes of off-premises signs, distance measurements shall be measured along the pertinent right-of-way lines.
- 7. **Visibility Standards.** All signs shall be erected or maintained in conformance with Sec. 13-1-56(7), Vision Clearance Standards. No sign may block or interfere with the visibility for ingress or egress of a driveway.
- 8. **Sign Maintenance.** All signs within the jurisdiction of this ordinance shall remain in a state of proper maintenance. Proper maintenance shall be the absence of loose materials including peeling paint, paper or other material, prevention of excessive rust, the prevention of excessive vibration or shaking and the maintenance of the original structural integrity of the sign, frame and other supports, its mounting and all components thereof. Signs found to be in violation of the provisions of this Section shall be repaired or removed.
- 9. **Nonconforming Signs and Uses.** Signs existing prior to the effective date of this ordinance which do not conform to the provisions of the ordinance shall be nonconforming signs. Nonconforming signs shall not be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this ordinance. Routine maintenance of a sign is permitted unless the cost exceeds fifty (50) percent of the current value of the sign, if the maintenance cost is more than fifty (50) percent of the value of the sign said sign shall be considered rebuilt. Nonconforming signs shall be brought into compliance or removed when the principal use of the premises is changed to a different use
- 10. **Sign Permits.** A permit to erect or construct a sign shall be required for all awning signs, marquee signs, and mobile signs, and any other sign with a sign copy area of eighteen (18) square feet or greater. Exceptions to this requirement are limited to temporary real estate, construction, development and agriculture signs. Anyone requesting a Sign Permit shall follow the procedure set forth in Sec. 13-1-73, Sign Permits.

**Sec. 13-1-56 Access, Spacing and Vision Clearance Standards on Town Roads**

- 1. **Purpose.** This Section sets forth vehicular access and vision clearance requirements for all developments along roadways located within the Town. The Town recognizes that public roadways are public investments that require control mechanisms in order to assure both public safety and functional capacity. All private access points shall meet the requirements set forth in this Section.
- 2. **Applicability.** Entrances to, or exits from a Town road shall be prohibited except at permitted access points. No person shall construct a access point for a private driveway, public road or road to be dedicated to the public to a Town road unless a building permit has been obtained from the Permit Issuer. Before any parcel of land is allowed to be developed, it must be proven that access can be provided in such a way that it will not violate the provisions of this Section. Vehicular access to Federal, State and County Trunk Highways shall be allowed as provided by the governing jurisdiction (i.e. access to County Trunk Highways is governed by Fond du Lac County).
- 3. **Access Standards.** When a property owner owns more than one parcel adjacent to another with the same zoning, all with frontage on the Town road, the parcels shall be treated as a single parcel for purposes of this subsection. In the case of corner lots abutting two Town roads, regardless of parcel zoning and proposed use, access shall be granted to the Town road with the lower average daily traffic (ADT) whenever possible
  - a. Parcels Zoned EAU, AT, A-1 or R-1. Multiple access points for parcels zoned EAU, AT and A-1 are permitted so long as the horizontal distance between the center lines of access points meet the spacing standards set forth below.

- b. Parcels zoned R-1 shall be permitted one access point per parcel.
  - c. Parcels Zoned BD or ID. Parcels zoned BD or ID are allowed one access point per fifty (50) required parking spaces. Each access point must meet the criteria of this Section. Access points must provide for safe, efficient movement of traffic by allowing vehicles to enter and exit the roadway in a forward motion.
4. **Spacing Standards.** The spacing of access points to lots and parcels shall be determined as a function of Town road speed limits. Access points shall not be allowed when the horizontal distance between the center lines of the proposed access point and an existing access point, or between the center lines of the proposed access point and an existing intersection would be less than the following distances:
- a. Town road speed limit 35 m.p.h. or less: Two hundred (200) feet.
  - b. Town road speed limit 36 m.p.h. to 55 m.p.h.: Three hundred (300) feet.
5. **Stopping Sight Distance Standard.** Access points shall not be allowed unless the applicant can demonstrate that the location of the access point complies with the stopping sight distance standards set forth in Exhibit 9. The stopping sight distance is a function of the Town road speed limit and road curvature (horizontal and vertical). A person standing fifteen (15) feet back from the intersection of the access point center line with the Town road right-of-way shall have an unobstructed view of persons standing in the center of the nearest oncoming lane of the Town road in each direction according to Exhibit 9.

**EXHIBIT 9  
STOPPING SIGHT DISTANCE FOR DRIVEWAY LOCATION**

Speed Limit on Town Road (miles per hour)	Minimum Sight Distance Required ("D")
25	150'
30	200'
35	250'
40	325'
45	400'
50	475'
55 or greater	600'

6. **Design Standards.** Access points must comply with the following design standards:
- a. *Private Driveways.* Private driveways with access to one or two agricultural or residential parcels shall have a width between sixteen (16) and twenty-four (24) feet and a return radius of twenty (20) feet.
  - b. *Other Driveways.* Driveways serving commercial, industrial and other residential developments not identified in (1) above shall meet the driveway specification standards on file with the Permit Issuer.
  - c. *Culverts.* Culverts shall be a minimum of fifteen (15) inches in diameter and placed under at least one foot of cover. Culverts must be constructed of corrugated metal or concrete with end walls.
  - d. *Slopes.* Slopes to the side of the access shall not be steeper than 4:1 (25 percent) or that of the embankment of the Town road, whichever is less.

- e. *Retaining walls.* Retaining walls are prohibited.
  - f. *Pavement.* Pavement of driveway access shall consist of blacktop or compacted gravel only.
  - g. *Drainage.* Construction of access shall be such that drainage of the Town road shall not be impeded.
  - h. *Curb and Gutter.* When applicable, existing curb and gutter shall be removed at the entrance for new access and new curb and gutter must be provided within the right-of-way.
  - i. *Angle.* Angle of access shall be as close to ninety (90) degrees with the center line of the Town road as possible, but in no case less than seventy-five (75) degrees.
7. **Vision Clearance Standards.** On corner lots in all zoning districts, nothing shall be placed 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 following dimensions:
- a. Intersection of Stop Roads/Driveway Access Points with Through Roads (Federal, State, County or Town Roadways). The vision clearance area at stop intersections where a stop road/driveway access point intersects with a through roadway (Federal, State, County or Town roadway) is a function of the speed limit of the through road. A person standing fifteen (15) feet back from the intersection of the right-of-way lines on the stop road must have an unobstructed view to a point on the center line of the through road according to Exhibit 10.
  - b. No-Stop Intersections. At no-stop intersections, a person standing at a location on the center line of any road one hundred-ninety (190) feet from the intersection of the center lines has an unobstructed view to a point located on the center line of the intersecting road one hundred-ninety (190) feet from the intersection of the center lines (See Exhibit 11).
  - c. All-Stop Intersections. At all-stop (four-way stop) intersections, a person standing twenty-five (25) feet back from the intersection of the right-of-way lines on the stop road has an unobstructed view to a point on the right-of-way of the intersecting road located twenty-five (25) feet from the intersection of the right-of-way lines (See Exhibit 12).

**EXHIBIT 10  
VISION CLEARANCE FOR DRIVEWAY ACCESS AND STOP  
INTERSECTIONS**

**EXHIBIT 11: VISION CLEARANCE AT NO-STOP INTERSECTIONS  
EXHIBIT 12: VISION CLEARANCE AT STOP INTERSECTIONS**

**Sec. 13-1-57 Highway Setbacks**

- 1. **Purpose.** Highway setback lines are established in the Town of Empire to protect the health and safety of residents and travelers by providing adequate unobstructed separation between transportation corridors and temporary and permanent structures.

2. **Setback Distances.** Except as provided in Sec. 13-1-57(3) below, no structure or portion thereof constructed or erected after the effective date of this ordinance is permitted within the setback distance provided in Exhibit 13.

**EXHIBIT 13  
HIGHWAY SETBACK DISTANCES**

Highway Classification	The Greater of...	
	Setback from Center Line	Setback from Right-of-Way Line
Federal and State Highways	110 feet	50 feet
County Highways, Town Roads	100 feet	50 feet
Streets within platted subdivisions		30 feet

3. **Structures Within Setback Lines.** The following structures may be located within the setback distance set forth in Exhibit 12, provided they do not violate the provisions of Sec. 13-1-56(7), Vision Clearance Standards:
- a. Open fences.
  - b. Essential service utilities.
  - c. Underground structures not capable of being used as foundations for future prohibited above-ground structures.
  - d. Driveway access points permitted under Sec. 13-1-56, Access, Spacing and Vision Clearance Standards.
  - e. Official traffic control signs.
  - f. Reconstruction of damaged or destroyed residences or accessory structures in existence on the effective date of this Ordinance, if such residences or structures were initially constructed with permanent foundations.
4. **Crops, Trees, Shrubs, Other Vegetation.** Nothing in Sec. 13-1-57 shall be interpreted as prohibiting the planting and/or harvesting of crops, shrubbery, trees or other vegetation within the setback distance, provided they do not violate the provisions of Sec. 13-1-56(7), Vision Clearance Standards.
5. **Setbacks.** It is the Town’s intent that setbacks apply to roads that are merely platted and lot laid out or improved.

**Sec. 13-1-58 through Sec. 13-1-59 Reserved for Future Use**

## ARTICLE F: ADMINISTRATIVE DUTIES

### Sec. 13-1-60 Town Board

1. **Powers and Duties.** The Town Board, in general, performs the following functions in relation to matters addressed by this ordinance:
  - a. Adopt and periodically review a schedule of fees, payable by applicants, for the review and processing of Building Permits, Occupancy Permits, Temporary Use Permits, Sign Permits, formal Site Plan Review, Conditional Use Permits, applications for variances, applications for amendments to this ordinance (text or map), appeals of decisions of the Permit Issuer/Permit Issuer, and appeals of decisions of the Planning Commission on Site Plan Review applications.
  - b. Approves, approves with changes, or disapproves, after due consideration of any recommendations made by the Planning Commission, any application for an amendment to this ordinance, including applications for amendment to the officially adopted zoning map.
  - c. Approves, approves with conditions, or disapproves, after due consideration of the recommendations made by the Planning Commission, any application for a subdivision plat.
  - d. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this ordinance.

### Sec. 13-1-61 Board of Appeals

1. **Creation and Membership.** The Zoning Board of Appeals under this ordinance is the Board of Appeals that has been duly created by the Town of Empire. The appointment of members and alternates, terms of appointment, filling of vacancies, use of alternates and other provisions related to the creation and membership of the Board of Appeals shall operate in accordance with Section 62.23(7)(e), Wisconsin Statutes as amended from time to time.
2. **Organization.**
  - a. The Board of Appeals shall have power to adopt rules and regulations for its own governance consistent with the provisions of this or any other ordinance of the Town.
  - b. Meetings of the Board of Appeals shall be held at the call of the Chair of the Board of Appeals, or at such other times as the Town Board may determine necessary.
  - c. All meetings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings showing its action and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
  - d. The presence of four (4) members of the Board of Appeals shall constitute a quorum. The concurring vote of four (4) members shall be required to reverse any order, requirement, decision or determination of the Permit Issuer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance. The grounds of every such determination shall be based on evidence presented in the record.

- e. The Board of Appeals may call on the Permit Issuer, Permit Issuer or other administrative officials for assistance in the performance of its duties, and it shall be the duty of such officials to provide such assistance as is reasonably requested.
3. **Powers and Duties.** The Board of Appeals shall have the following powers and duties:
- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Permit Issuer in the administration or enforcement of this ordinance.
  - b. To hear and decide applications, in specific cases, for variances from this ordinance.
  - c. To hear and decide applications, in specific cases, for Conditional Use Permits.
  - d. To hear and decide applications for Conditional Use Permits for the construction or use of buildings, structures or other improvements for public utility uses reasonably necessary for the public convenience and welfare, subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this ordinance.
  - e. To hear and decide all other matters referred to it upon which it is required to act under this ordinance.

### **Sec. 13-1-62 Planning Commission**

1. **Creation and Membership.** The Planning Commission under this ordinance is the Planning Commission that has been duly created by the Town of Empire. It is the responsibility of the Planning Commission to implement and enforce this ordinance as set forth hereafter. The Planning Commission shall consist of five (5) members, appointed by the Town Board Chair and subject to approval by the Town Board, selected for their knowledge of and interest in matters pertaining to this ordinance. Members shall serve three (3) year terms, except that of those first appointed one shall serve for one year, two for two years and two for three years. Annually, the Town Board Chair shall appoint a Commission Chair. The members of the Planning Commission shall thereafter elect other officers as may, in their judgment, be necessary.
2. **Organization.**
- a. The Planning Commission shall have power to adopt rules and regulations for its own governance consistent with the provisions of this or any other ordinance of the Town.
  - b. Meetings of the Planning Commission shall be held at the call of the Commission Chair, or at such other times as the Town Board may determine necessary.
  - c. All meetings of the Planning Commission shall be public. The Planning Commission shall keep minutes of its proceedings showing its action and the vote of each member upon questions requiring a vote or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
  - d. The presence of four (4) members of the Planning Commission shall constitute a quorum. The concurring vote of three (3) members shall be required to any matter upon which it is required to pass under this ordinance. The grounds of every such determination shall be based on evidence presented in the record.

- e. The Planning Commission may call on the Permit Issuer or other administrative officials for assistance in the performance of its duties, and it shall be the duty of such officials to provide such assistance as is reasonably requested.
3. **Powers and Duties.** The Planning Commission shall have the following powers and duties:
- a. To initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this ordinance, including applications for amendments to the officially adopted zoning map.
  - b. To hear, review and offer its recommendations to the Town Board on applications for subdivision plats.
  - c. To review and decide on applications for site plan review.
  - d. At the request of the Town Board, to prepare and recommend to the Town Board a comprehensive plan for the Town, and from time to time to recommend the Town Board such amendments to the plan as it deems appropriate.
  - e. To aid and assist the Town Board in implementing the Towns adopted land use policies and in planning, developing and completing specific projects.

#### **Sec. 13-1-63 Permit Issuer**

1. **Powers and Duties.** It shall be the duty of the Building Inspector and/or other official designated as Permit Issuer by the Town, to administer and enforce the provisions of this ordinance. The Permit Issuer/ shall be appointed by the Town Board Chair and confirmed by the Town Board. The Permit Issuer shall:
- a. Examine all applications for Building Permits, Occupancy Permits, Sign Permits and Temporary Use Permits, and approve such permits when there is compliance with the provisions of this ordinance.
  - b. Revoke by order any permits approved under a misrepresentation or misstatement of fact, or approved contrary to the law or provisions of this ordinance.
  - c. Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.
  - d. Issue stop-work orders and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance.
  - e. When directed by the Town Board, institute in the name of the Town any appropriate legal action or proceedings to prevent or correct any violation of this ordinance.
  - f. Maintain maps and/or records of all nonconformities and approved Conditional Use Permits and variances.
  - g. At the request of the Town Board, Town Board Chair, Planning Commission or Board of Appeals, present to such persons or bodies facts, records or reports that may assist them in making decisions, or assist them in any way as requested.

#### **Sec. 13-1-64 through Sec. 13-1-69 Reserved for Future Use**

## ARTICLE G: ADMINISTRATIVE PROCEDURES AND ENFORCEMENT

### Sec. 13-1-70 Building Permits

1. **Purpose.** The Building Permit is a document issued by the Permit Issuer to verify that a proposed structure(s) or alteration of an existing structure or structures, as represented, will conform with all applicable provisions of law.
2. **Applicability.** No building shall be erected, altered, structurally altered, reconstructed or moved until a Building Permit has been issued by the Permit Issuer. A Building Permit shall be required for the construction or alteration of any building or structure, including swimming pools, the total labor and materials costs of which total two thousand dollars (\$2,000.00) or more, not including routine maintenance or repairs. However, if the construction or alteration affects a change in use, an Occupancy Permit shall be required as set forth in Sec. 13-1-71.  
Provided that prior to the commencement of any activity that does meet the criteria set forth above, the owner shall notify the Permit Issuer in writing of such activities, giving the address and exact nature of the work to be done, the commencement date and an estimate of its cost. The Permit Issuer may require further information if it is deemed necessary to the enforcement of the provisions of this ordinance.
3. **Application.** Application for a Building Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall include the following information as may required by the Permit Issuer in his discretion:
  - a. Name and address of the owner of the land and, if different, the owner of the structure.
  - b. A statement addressing the current use and proposed use of the land and structures.
  - c. Lot dimensions (including total acreage or square footage) and the location, dimensions and arrangements of all proposed open spaces, yards, buffering, parking and signs.
  - d. Site layout, drawn to scale, showing the location and dimensions of all existing and proposed uses and buildings with their height and floor dimensions and setbacks from the public right-of-way.
  - e. For structures intended for human habitation, satisfactory proof of a safe and adequate water supply and satisfactory proof that the proposed sewerage system complies with all applicable laws and ordinances.
  - f. Any other information necessary for the Permit Issuer to enforce the provisions of this ordinance.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Issuance of Building Permit.** If it is determined that the proposed structure, as represented, will comply with all applicable state laws and the provisions of this ordinance, the Permit Issuer shall officially approve and sign one set of plans and return it to the owner, and issue a Building Permit. The Building Permit shall be kept on display at the site of the proposed building until work is completed.
6. **Time Limits.** Building Permits issued pursuant to this Section are valid for a period of six (6) months from the date of issuance. If substantial work, as measured in terms of expenditure of labor and materials or economic value of improvements, has not

- commenced prior to the expiration of the permit the applicant shall be required to reapply for a new Building Permit. The Permit Issuer may grant an applicant a one-time, six-month extension of a Building Permit if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.
7. **Improper Issuance.** A Building Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.
  8. **Prior Permits.** No Building Permit lawfully issued by the Permit Issuer prior to the effective date of adoption or amendment of this ordinance shall be invalidated by the adoption or amendment of this ordinance. Such permits shall remain valid for the period and under the terms of its issuance.

### Sec. 13-1-71 Occupancy Permits

1. **Purpose.** The Occupancy Permit is a document issued by the Permit Issuer to verify that the activities undertaken under a Building Permit, or proposed new or changed uses of land conform to the terms of the Building Permit and/or applicable provisions of law.
2. **Applicability.** An Occupancy Permit shall be required for any of the following:
  - a. Occupancy and use of a building erected, altered, structurally altered, reconstructed or moved.
  - b. Any change in use or in the number of dwelling units allowed in an existing building.
  - c. Occupancy and use of vacant land.
  - d. Change in the use of land to a use of a different zoning classification.
  - e. Any change in the use of a nonconforming use, provided that such use is in compliance with the provisions of Sec. 13-1-50, Nonconforming Uses, Structures and Lots.
3. **Application.** Application for an Occupancy Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall conform to the following:
4. **Uses Requiring an Occupancy Permit.** Written application for an Occupancy Permit for any activity also requiring a Building Permit shall be made at the same time as the application for the Building Permit. The Occupancy Permit shall be issued within ten (10) days after final inspections have been made and the structure(s) have been found in full conformity with the terms of the Building Permit and all applicable provisions of law.
  - a. Vacant Land, Change in Land Use or Change in Nonconforming Use. Written application for an Occupancy Permit for the use of vacant land, for a change in the use of an existing land or building, or for a change in a nonconforming use shall be made to the Permit Issuer and shall contain the information required by Sec. 13-1-70(3), as applicable. If the proposed use is in conformity with the provisions of this ordinance, the Occupancy Permit shall be issued by the Permit Issuer within ten (10) days from the date of application.
  - b. Use Certification. Upon written application from the property owner, the Permit Issuer shall issue an Occupancy Permit for any structure or premises existing at the time of adoption of this ordinance certifying, after inspection, the use made of the structure and premises at the time of adoption and whether or not such use conforms to the provisions of this ordinance.

5. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
6. **Temporary Occupancy.** The Permit Issuer may issue a temporary Occupancy Permit for a period not to exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Extensions may be obtained beyond the six (6) months' period only by application and issuance of a new temporary Occupancy Permit.
7. **Contents/Recordkeeping.** Every Occupancy Permit shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Occupancy Permits shall be kept on file in the office of the Permit Issuer and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.
8. **Improper Issuance.** An Occupancy Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

### **Sec. 13-1-72 Temporary Use Permits**

1. **Purpose.** The Temporary Use Permit is a document issued by the Permit Issuer to regulate the size, location and placement of structures and/or uses not intended to become permanent. Such uses may include, but are not limited to the sale of merchandise, tents or structures for outdoor events open to the public, or the location and setup of circuses and carnivals.
2. **Exceptions.** Garage sales, rummage sales, "sidewalk sales" in conjunction with the year-round business use of the premises, and roadside stands for the sale of produce, Christmas trees or other products grown or produced on the premises and sold on a seasonal basis (not to exceed ninety (90) days in a calendar year) are exempt from the requirements of Sec. 13-1-72.
3. **Applicability.** In order for a Temporary Use Permit to be issued, such use must be of a type permitted as a permanent use in the underlying zoning district where the use is to be located and must comply with all provisions of that district.
4. **Application.** Application for a Temporary Use Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall contain the information required by Sec. 13-1-70(3), as applicable. If the proposed use is in conformity with the provisions of this ordinance, the Temporary Use Permit shall be issued by the Permit Issuer within ten (10) days from the date of application.
5. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
6. **Time Limits.** Temporary Use Permits issued pursuant to this Section are valid for a period of ninety (90) days from the date of issuance and the use shall be discontinued immediately upon the expiration of the Temporary Use Permit. An applicant may not be granted more than one Temporary Use Permit for the same use in a calendar year.
7. **Improper Issuance.** A Temporary Use Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

### Sec. 13-1-73 Sign Permits

1. **Purpose.** The Sign Permit is a document issued by the Permit Issuer to regulate the size, location and placement of signs, and to create a record of the signs placed within the Town.
2. **Applicability.** A permit to erect or construct a sign shall be required for all awning signs, marquee signs, and mobile signs, and any other sign with a sign copy area of eighteen (18) square feet or greater. Exceptions to this requirement are limited to temporary real estate, construction, development and agriculture signs.
3. **Application.** Application for a Sign Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer. If the proposed sign is in conformity with the provisions of this ordinance, the Sign Permit shall be issued by the Permit Issuer within ten (10) days from the date of application. The Permit Issuer shall issue a suitable identification tag with each Sign Permit. The identification tag shall be placed on the sign or on a support column in a location that is easily visible to the Inspector.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Time Limits.** If the application is for a permit for a temporary sign, the permit granted is valid for a period of ninety (90) days from the date of issuance and the sign shall be removed immediately upon the expiration of the permit. An applicant may not be granted permits for temporary signs in excess of the time restrictions provided under Sec. 13-1-55 or in Exhibits 7 and 8..
6. **Improper Issuance.** A Sign Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

### Sec. 13-1-74 Site Plan Permits

1. **Purpose.** The Town Board recognizes that zoning, by itself, does not guarantee that new development will integrate into the community. Often, a legally-allowable use may, nonetheless, be incompatible with its proposed environment due to various design factors. Site plan review provides the Town with an opportunity to regulate development to ensure that structures and sites fit harmoniously into the surrounding environment.
2. **Applicability.** Except for buildings and accessory structures consistent with agricultural uses, a site plan permit shall be required in the circumstances as indicated in Exhibit 1 for any of the following activities:
  - a. New construction of a building or other structure, except as provided below.
  - b. Expansion of an existing use that involves a floorspace increase of twenty (20) percent or more within any 10-year period.
  - c. Change of business or other activity that requires an increase of ten (10) percent or more in the number of off-street parking spaces.
  - d. Alteration or expansion of an existing parking lot that affects greater than ten (10) percent of the total number of parking spaces
  - e. Remodel or exterior alteration of any building or other structure, the cost of which exceeds five (5) percent of the structure's total fair market value as determined by the Permit Issuer.
3. **Initiation of Process; Payment of Fee.** The site plan review process shall be initiated prior to the commencement of any site disturbing activities such as grading, filling, vegetation removal, etc. associated with the proposed activity. Payment of the appropriate

- fee, as set forth by the Town Board's schedule of fees, shall be made at the time of the preapplication conference.
4. **Preapplication Conference.** To assist the Town and the applicant in the site plan review process, an applicant for site plan review may arrange for a preapplication conference with the Town Board Chair, Permit Issuer, and/or selected Planning Commissioners by submitting forms and sketch plans as prescribed by the Permit Issuer prior to submission of a formal application. A preapplication conference need not include extensive field inspection or correspondence. The purposes of the preapplication conference are to bring about an informal discussion regarding a proposed project, and to assist the applicant by identifying the following:
    - a. (Requirements for submittal, including any other types of permits necessary to complete the proposal;
    - b. Applicable community plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements;
    - c. Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.
    - d. The discussion at the preapplication conference shall not bind or prohibit the community's future enforcement or application of its codes and ordinances.
  5. **Formal Application.** Application for site plan review shall include the documents described under "Submission Requirements" below as may be required by the Planning Commission in its discretion. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file for public inquiry. After the application is determined to be complete for purposes of further processing, the Commission may transmit copies of the site plan documents to the Permit Issuer, Zoning Administrator or other consultant(s), official(s) as deemed necessary, in order to solicit comments. The reviewing officials shall then submit written comments to the Commission within 21 days concerning the potential impacts of the proposed development on the objectives listed under "Standards of Review" below, and any recommended conditions or remedial measures to accommodate or mitigate these expected impacts. Failure of any of the aforementioned parties to respond within the allotted time shall be interpreted as approval of the site plan as proposed.
  6. **Submission Requirements.** A site plan shall be prepared on standard 24" x 36" sheets, with continuation on 8 \_ x 11" sheets as necessary for written narrative. The Permit Issuer or other decision-making body may require any of the following items as part of the formal site plan submission:
    - a. Name of the project, boundaries, and location maps showing the site's location in the community, date, north arrow and scale of the plan.
    - b. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
    - c. Names and addresses of all owners of record of abutting parcels and those within three hundred feet (300') of the property line.
    - d. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and the location and use of structures within three hundred feet (300') of the site.
    - e. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
    - f. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls and fences.

Location, type, and screening details for all waste disposal containers shall also be shown.

- g. The location, height, intensity and coverage area of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  - h. The location, height, size, materials, and design of all proposed signage.
  - i. The location of all present and proposed utility systems including sewage system; water supply system; telephone, cable and electrical systems; storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
  - j. Soil logs, percolation tests and storm runoff calculations for large or environmentally-sensitive developments.
  - k. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
  - l. Existing and proposed topography at two-foot (2') contour intervals. If any portion of the parcel is within the 100-year floodplain, the area shall be shown and base flood elevations given. Indicate areas within the proposed site and within fifty feet (50') of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
  - m. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
  - n. Zoning district boundaries within five hundred feet (500') of the site's perimeter shall be drawn and identified on the plan.
  - o. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred feet (100') of the site.
  - p. For new construction or alterations to any existing building, a table containing the following information:
    - i. area of building to be used for a particular use such as retail operation, office, storage, etc;
    - ii. maximum number of employees;
    - iii. maximum seating capacity, where applicable;
    - iv. number of parking spaces existing and required for the intended use.
    - v. Elevation plans at a scale of  $\frac{1}{4}'' = 1'$  for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of signs to be used.
7. **Procedure.** For proposals not requiring a Conditional Use Permit, the Commission shall issue its decision on the application within thirty (30) days after the determination that the application is complete. For proposals also requiring a Conditional Use Permit, the Commission shall issue its decision on the site plan application no later than seven (7) days after the hearing held by the Board of Appeals on the proposed Conditional Use Permit if such Conditional Use Permit is granted.
8. **Decision of Planning Commission.** The Commission's decision shall consist of either:
- a. Approval of the site plan.
  - b. Approval of the site plan subject to any conditions, modifications or restrictions as imposed by the Commission
  - c. Disapproval of the site plan.

9. **Criteria for Review.** During the site plan review process, the Commission shall review the site plan and supporting documents to assess the reasonable fulfillment of the following listed objectives:
  - a. **Legal.** Conformance with the provisions of the ordinances and rules of the State of Wisconsin, Fond du Lac County and the Town;
  - b. **Traffic.** Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
  - c. **Parking.** Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
  - d. **Services.** Reasonable demands placed on community services and infrastructure.
  - e. **Pollution Control.** Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
  - f. **Nuisances.** Protection of adjacent and neighboring properties and community amenities from any undue disturbance caused by excessive or unreasonable noise, fumes, smoke, dust, odors, glare, stormwater runoff, etc.
  - g. **Existing Vegetation.** Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
  - h. **Amenities.** The applicant's efforts to integrate the proposed development into the existing landscape through design features such as consistent and complimentary architectural design, vegetative buffers and/or the retention of open space.
  - i. **Character.** The building setbacks, area and location of parking, architectural compatibility, signage and landscaping of the development, and how these features harmonize with the surrounding built environment and natural landscape.

### **Sec. 13-1-75 Appeals of Administrative Decisions**

1. **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is an error of law in any decision made by the Building Inspector or Permit Issuer in the enforcement of this ordinance. For the purposes of this subsection, "decision" means any written order, ruling, requirement or decision made by the Permit Issuer in acting to carry out the provisions of this ordinance.
2. **Application.** Any person, firm, corporation or governmental unit materially affected by a decision of the Building Inspector or Permit Issuer may appeal such decision. The appeal must be filed with the Town Clerk no more than thirty (30) days after the Permit Issuer issues the decision being appealed. An appeal must be in writing and contain the following:
  - a. (A brief statement as to how the appellant is materially affected by or interested in the matter appealed;
  - b. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision being appealed;
  - c. The relief requested, such as reversal or modification;
  - d. Signature, address, and phone number of the appellant, and name and address of appellant's designated representative, if any. In the event an organization is the appellant, one person shall be designated as the contact person for all procedural matters related to the appeal; and
  - e. Any documentation supporting appellant's position on appeal.

3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the written appeal.
4. **Procedure.** The Board of Appeals shall hold a public hearing on the appeal no more than forty-five (45) days from the filing date of the appeal, and shall issue its decision no later than sixty (60) days from the filing date of the appeal. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
5. **Decision Criteria.** The order, determination or decision of the Permit Issuer may be reversed or modified if appellant affirmatively demonstrates any of the following:
  - a. The decision is an erroneous interpretation of this ordinance;
  - b. The decision is not supported by substantial evidence; or
  - c. The decision is outside the authority of the Building Inspector or Permit Issuer.

### Sec. 13-1-76 Variances

1. **Purpose.** Variances are the mechanism by which the Town may grant relief from the terms of this ordinance where, owing to special physical conditions, a literal enforcement of the height, bulk, setback or other dimensional provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
2. **Use Variance Prohibited.** A variance is authorized only where practical difficulty or unnecessary hardship are a result of the physical characteristics of the subject property. Variances are not authorized for changes in density requirements or for allowing or expanding uses otherwise prohibited. A variance shall not be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
3. **Application.** All applications for a variance shall be made in writing to the Permit Issuer on a form furnished by the Permit Issuer. Where a site plan is required by the terms of this ordinance it shall be submitted coincident with the application. In cases where a site plan is not required, the application shall contain information as required by Sec. 13-1-70(3), as applicable. The application should also provide information necessary to demonstrate how the request meets the variance decision criteria set forth below. The Permit Issuer shall refer all applications and accompanying materials to the Board of Appeals.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Procedure.** The Board of Appeals shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the application, and shall issue a written decision no later than sixty (60) days from the filing date of the application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
6. **Decision Criteria.** The variance may be approved, or approved with conditions, if:
  - d. The variance will not permit the establishment of a use which is not permitted or permissible in the zoning district in which the subject property is located;

- e. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located;
  - f. The variance is necessary for the preservation of the same rights permitted to other properties in the same vicinity and zone as the subject property, but which is denied to the subject property because of special physical circumstances such as size, shape, topography, location or surroundings;
  - g. The need for a variance has not arisen from actions taken or proposed by the applicant;
  - h. The variance is the minimum necessary to afford relief to the applicant; and
  - i. The variance is consistent with this and all other Town ordinances.
7. **Conditions.** A variance may be approved with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
8. **Time Limits.** If the applicant has not filed for a Building Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the variance by the Board of Appeals, the applicant shall be required to reapply for a variance. The Permit Issuer may grant an applicant a one-time, one year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

#### **Sec. 13-1-77 Conditional Use Permits**

1. **Purpose.** The Conditional Use Permit is a mechanism by which the Town may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property.
2. **Application.** All applications for a Conditional Use Permit shall be made in writing to the Permit Issuer on a form furnished by the Permit Issuer. Where a site plan is required by the terms of this ordinance it shall be submitted coincident with the application. In cases where a site plan is not required, the application shall contain information as required by Sec. 13-1-70(3), as applicable. The application should also provide information necessary to demonstrate how the request meets the Conditional Use Permit decision criteria set forth below. The Permit Issuer shall refer all applications and accompanying materials to the Board of Appeals.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
4. **Procedure.** The Board of Appeals shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the application, and shall issue a written decision no later than sixty (60) days from the filing date of the application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
5. **Decision Criteria.** A Conditional Use Permit may be granted, or granted with conditions, if:
  - a. The use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate

- vicinity of the subject property and with the physical characteristics of the subject property;
- b. Adequate provisions are made for roads, water, fire protection, sewage disposal and other necessary facilities;
  - c. The use will not be materially detrimental to uses or property adjacent to the subject property;
  - d. All reasonable measures have been taken to eliminate any negative impacts that the proposed use may have on the surrounding area;
  - e. In the case of a Conditional Use Permit for the construction or use of buildings, structures or other improvements for public utility uses reasonably necessary for the public convenience and welfare, that the use or improvement shall meet a demonstrable public need and provide a public benefit; and
  - f. The use complies with this and all other Town ordinances.
6. **Conditions.** A Conditional Use Permit may be granted with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
  7. **Time Limits.** If the applicant has not filed for a Building Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the Conditional Use Permit by the Board of Appeals, the applicant shall be required to reapply for a Conditional Use Permit. The Permit Issuer may grant an applicant a one-time, one-year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

### Sec. 13-1-78 Amendments

1. **Purpose.** The amendment process provides a method for making changes to the text of this ordinance or the adopted zoning map to allow for changes in existing conditions or the direction of development, the preservation of property values, the protection of natural resources, or to correct ordinance language, operation or procedures when deemed necessary, all to promote the health, safety, morals or the general welfare of the entire Town.
2. **Application.**
  - a. *Text Amendment.* Text Amendments may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by a property owner or resident of the Town. A property owner or resident shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request promotes the health, safety, morals or the general welfare of the Town. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.
  - b. *Map Amendment.* Map amendments (rezones) may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by the owner(s) of the particular property to be rezoned. Property owner(s) shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request relates to the decision considerations set forth in Sec. 13-1-78(5) below. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.

4. **Procedure.** The Planning Commission shall hold a public hearing on the proposed amendment no more than forty-five (45) days from the filing date of the application or resolution, and shall forward a written recommendation to the Town Board no later than sixty (60) days from the filing date of the application. Notice of the Planning Commission's public hearing shall be mailed to the parties of interest, as determined by the Planning Commission. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Planning Commission. In making its recommendation to the Town Board, the Planning Commission shall consider any relevant evidence gathered at the public hearing, any applicable decision considerations and any other applicable ordinance provisions.

The Town Board shall hold a public hearing on the application no more than thirty (30) days from the receipt of the Planning Commission's recommendation or, if the Planning Commission fails to forward such recommendation, no later than ninety (90) days from the filing date of the application. Notice of the Town Board's public hearing shall be mailed to the parties of interest. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Town Board. The Town Board shall issue its decision on the application no later than thirty (30) days from the date of the Town Board's public hearing. In making its decision, the Town Board shall consider any relevant evidence gathered at the public hearings, the recommendation of the Planning Commission, any applicable decision considerations and any other applicable ordinance provisions. If the Town Board action is to approve the amendment, or approve the amendment with modifications, it shall further act to formally adopt the amendment by ordinance. In the case where the Planning Commission unanimously recommended denial of the change, or in the case where a valid protest as addressed in Section 62.23(7)(d)(2), Wisconsin Statutes is filed prior to or at the public hearing, a three-fourths (¾) vote of the Town Board members is required for approval of the amendment.

#### 5. **Decision Considerations**

- a. *Text Amendments.* In deciding on a proposed text amendment, the Planning Commission and Town Board should consider and address whether the amendment will promote the health, safety, morals and general welfare of the Town.
- b. *Map Amendments.* In deciding on a proposed map amendment, the following factors should be considered:
  - i. Whether the proposed amendment is warranted because of changed circumstances or a need for additional land in the proposed zone and the proposed designation is appropriate for reasonable development of the subject property;
  - ii. Whether the subject property is suitable for development in general conformance with the zoning standards of the proposed zoning designation;
  - iii. Whether the proposed amendment will be materially detrimental to uses or property adjacent to the subject property;
  - iv. Whether provisions are or can be made for roads, water, fire protection, sewage disposal and other necessary facilities that are adequate for the density and use to which the subject property is being rezoned;

- v. Whether the proposed amendment will promote the health, safety, morals or general welfare of the Town.

**EXHIBIT 14  
REVIEW PROCEDURES**

Decision Type	Permit Issuer	Planning Commission	Zoning Board of Appeals	Town Board
Building Permits	D		A	
Occupancy Pmt.	D		A	
Temp. Use Pmt.	D		A	
Sign Permits	D		A	
Variances			D	
Conditional Use Permits			D	
Site Plans		D		
Text Amendments		R		D
Map Amendments		R		D

D = Decision R = Recommendation A = Appeal

## **Sec. 13-1-79 Zoning Ordinance Enforcement**

1. **Notice of Violation.** Whenever it comes to the attention of the Permit Issuer that a building or structure is or is proposed to be erected, constructed, reconstructed, altered or converted, or any use established in violation of the provisions of this ordinance, the Permit Issuer shall issue a stop-work order or other order requiring the correction of all conditions found to be in violation of the provisions of this ordinance. The order shall notify the responsible person that he/she shall commence correction of all violations within seven (7) days of the date of the order, and shall correct all violations within thirty (30) days of the order. If corrections are not commenced within seven days or concluded within thirty (30) days of said order, each day that a violation continues shall be considered a separate offense.
2. **Remedies.** In the event that the responsible person does not complete all necessary corrective measures within the time period specified in Sec. 13-1-79(1) above, the Town Board may take any and all steps necessary to institute appropriate legal action to enjoin, correct or abate such violation.
3. **Penalties.** Any person who is convicted of violating any provision of this ordinance, or any order rule or regulation made hereunder, shall be fined not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of enforcement. Each day of violation will constitute a separate offence.

Sec. 13-1-80 through Sec. 13-1-89 Reserved for Future Use

## **ARTICLE H: DEFINITIONS OF WORDS AND PHRASES**

### **Sec. 13-1-90 Application.**

In the construction of this ordinance, the rules and definitions contained in Article H shall be observed and applied, except when the context clearly indicates otherwise.

### **Sec. 13-1-91 Rules.**

Words used in the present tense shall include the future tense; the singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure". The word "shall" is mandatory and not directory; the word "may" is permissive.

### **Sec. 13-1-92 Definitions.**

**ABANDONMENT:** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions during periods of vacationing, remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of seasonal closure.

**ABUTS, ABUTTING:** Having a common property line or district line.

**ACCESSORY USE:** See USE, ACCESSORY.

**ADJACENT:** To lie near or close to; in the neighborhood or vicinity of.

**ADJOINING:** Touching or contiguous, as distinguished from lying near or adjacent.

**ADULT FAMILY HOME:** As defined in Section 50.01(1), Wisconsin Statutes, and licensed under Section 50.033, Wisconsin Statutes.

**AGRICULTURE or AGRICULTURAL USES:** Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, vegetables or berries; sod farming; placing land in federal programs in return for payments in kind; owning land enrolled in the conservation reserve program under 16 USC 3831-3836; participating in the milk production termination program under 7 USC 1446.

**AIRPORT, PUBLIC:** Any airport which complies with the definition contained in Section 114.002(18m), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

**ALLEY:** A public right-of-way which affords a secondary means of vehicular access to abutting properties. A street shall not be considered an alley.

**ALTERATION:** Any change, addition or modification to the size, shape or use of an existing building or structure. (See also STRUCTURAL ALTERATION.)

**ANIMAL HOSPITALS OR POUNDS:** Land or buildings devoted to the care, feeding, or examination of animals by a veterinarian or person charged with the responsibility of caring for impounded animals.

**ANIMAL UNIT:** One (1) animal unit is equivalent to two (2) cows, two (2) horses, ponies or mules, four (4) hogs, eight (8) sheep, eight (8) goats or twenty (20) poultry.

**APARTMENT:** A room or group of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single dwelling unit, and which shall include complete kitchen facilities permanently installed. (See also DWELLING UNIT; DWELLING, MULTIPLE FAMILY).

**AUTOMOBILE:** See MOTOR VEHICLE.

**AUTOMOBILE REPAIR STATION:** A building or premises designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. (See also AUTOMOBILE SERVICE STATION, CONVENIENCE STORE).

**AUTOMOBILE SERVICE STATION:** A building or premises used for offering fuels, lubricating oil, grease, tires, batteries and accessories for motor vehicles for retail sale to the public, and where light maintenance activities such as engine tune-ups, lubrication, and minor repairs are conducted. Automobile service stations do not include open sales lots. (See also AUTOMOBILE REPAIR STATION, CONVENIENCE STORE).

**AUTOMOBILE WRECKING YARD:** Any premises where the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts takes place. The presence on any lot or parcel of land of three (3) or more motor vehicles which, for a period exceeding 30 days, have not been capable of operating under their own power and have been stored in an open area visible from neighboring properties or a public right-of-way shall constitute prima-facie evidence of an automobile wrecking yard. (See also SALVAGE YARD).

**BASEMENT:** That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its floor to ceiling height is below the average finished grade. A basement or cellar shall be counted as a story if it is used for living quarters. (See also CELLAR.)

**BED AND BREAKFAST ESTABLISHMENT:** Any place of lodging that provides six (6) or fewer rooms for short-term lodging for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wisconsin Administrative Code.

**BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or other lines of demarcation. A block may be located in part

beyond the boundary lines of the Town of Empire.

**BOARD OF APPEALS:** The Zoning Board of Appeals of the Town of Empire, Wisconsin.

**BOARDING HOUSE:** An establishment with long-term lodging for six (6) or fewer persons where meals are regularly prepared and served as part of the rental arrangement, and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

**BUFFER:** An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, an/or other berms, designed to limit continuously the view of an/or sound from the site to adjacent sites or properties.

**BUILDABLE LOT AREA:** That portion of a lot remaining when all required yard space has been excluded.

**BUILDING:** Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to land. (See also STRUCTURE).

**BUILDING, ACCESSORY:** A subordinate structure or structures detached from, but located on the same lot as the principal structure, the use of which is incidental and related to that of the principle structure.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space, or from other buildings or structures, by a permanent roof and by exterior walls, pierced only by windows and normal entrance and exit doors.

**BUILDING, DETACHED:** A building surrounded by open space on the same lot.

**BUILDING HEIGHT:** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs as measured from the curb level if the building is not more than 10 feet from the front lot line, or from the grade in all other cases.

**BUILDING, PRINCIPAL:** A building in which the principal use permitted on the lot is conducted.

**BUILDING, TEMPORARY:** Any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.

**BULK:** The term used to indicate the size and setback of buildings or structures, and the location of same with respect to one another, and includes the following: (a) size and height of buildings; (b) location of exterior walls; (c) floor area ratio; (d) open space allocated to buildings; and (e) lot area and lot width.

**CAMPGROUND:** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character

**CAR WASH:** An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

**CARPORT:** A roofed automobile shelter with two or more open sides.

**CELLAR:** A space having more than one-half of its floor to clear-ceiling height below average finished grade. A cellar shall be counted as a story if it is used for living quarters. (See also BASEMENT.)

**CENTER LINE:** The center line of any road or highway is the point equidistant from the right-of-way lines, regardless of the location of the surfacing, pavement, roadbed or directional separator of the roadway within the right-of-way.

**CHURCH or PLACE OF RELIGIOUS ASSEMBLY:** A building or structure primarily used as a place where religious services, meetings or related activities of any denomination are conducted.

**CLUBS, FRATERNITIES, LODGES AND MEETING PLACES OF A NON-**

**COMMERCIAL NATURE:** A non-profit association of persons, who are bonafide members

paying dues, which owns, hires or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

**CLUSTER DEVELOPMENT:** A development design technique in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The remaining land is permanently reserved for recreation, common open space, and/or the preservation of environmentally sensitive areas.

**COMMERCIAL ENTERTAINMENT FACILITIES:** A structure, building or land devoted to one or more of the following uses: tavern, bar, supper club, restaurant or similar use.

**COMMUNITY LIVING ARRANGEMENT:** Any of the following facilities licensed or operated or permitted under the authority of the Wisconsin Statutes: child welfare agencies under Section 48.60; group homes for children under Section 48.02(7); community-based residential facilities under Section 50.01; and youth village programs under Section 118.42. "Community living arrangement" does not include adult family homes as defined in Section 50.01(1), Wisconsin Statutes; day care centers, nursing homes, general hospitals, special hospitals, prisons or jails. The establishment of a community living arrangement shall be in conformance with all applicable provisions of the Wisconsin Statutes, including Section 60.63 and amendments thereto, the Wisconsin Administrative Code, and the provisions of this ordinance. [See Section 60.63, Wisconsin Statutes]

**CONCESSION STAND:** A structure devoted to the sale of confections, snacks or other light meals and providing no inside seating nor drive-in service for the customers.

**CONVENIENCE STORE:** A retail establishment where packaged and/or pre-prepared food, beverages and convenience items, and gasoline or any other motor fuels are offered for sale, but automobile maintenance services are not performed. (See also AUTOMOBILE REPAIR STATION, AUTOMOBILE SERVICE STATION).

**DAY CARE HOME:** Any facility operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of nine (9) or more children for less than twenty-four (24) hours a day. (See also FAMILY DAY CARE HOME).

**DENSITY, GROSS:** The number of dwelling units permitted per acre of land, said land area to include any existing or proposed public or private roads or rights-of-way.

**DENSITY, NET:** The number of dwelling units permitted per acre of land, said land area not to include any existing or proposed public or private roads or rights-of-way.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

**DRIVE-IN FACILITY:** An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises.

**DWELLING:** A building or portion thereof that provides living facilities for one or more families, but not including hotels, motels or boarding houses

**DWELLING UNIT:** One or more rooms physically arranged so as to create an independent housekeeping establishment of occupancy by one family or not more than three (3) roomers, which shall include complete toilet and kitchen facilities permanently installed

**DWELLING, MULTIPLE FAMILY (APARTMENTS AND CONDOMINIUMS):** A building containing three (3) or more dwelling units used for occupancy by three (3) or more families living independently of each other.

**DWELLING, TWO-FAMILY (DUPLEXES):** A single residential building containing two dwelling units, separated from each other by common or party walls without openings, entirely surrounded by open space on the same lot.

**DWELLING, SINGLE-FAMILY:** A residential building containing one dwelling unit entirely surrounded by open space on the same lot.

**EXTRA-TERRITORIAL AREA:** Any area within the Town of Empire within 3 miles of the corporate limits of a first, second or third class city, or 1 \_ miles of a fourth class city or village. [See Section 62.23 (7a), Wisconsin Statutes]

**FAMILY:** Any number of individuals living together as a single household unit or complete domestic establishment, but not including a group occupying a boarding house or hotel.

**FAMILY DAY CARE HOME:** Any facility meeting the definition provided in Section 66.304, Wisconsin Statutes, operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of four (4) to eight (8) children for less than 24 hours a day. (See also DAY CARE HOME).

**FARMSTEAD:** One or two single-family dwellings and related structures accessory to agricultural operations located on a single parcel of land used primarily for agriculture.

**FENCE:** A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.

**FENCE, OPEN:** A fence including gates, at least fifty (50) percent of the surface area of which is open space to allow an unobstructed view through the fence.

**FENCE, SOLID:** A fence, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.

**FLOOR AREA:** The sum of the gross horizontal area of the several floors of the building, excluding areas used for off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory an incidental to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.

**FOOD PROCESSING ESTABLISHMENTS:** Commercial facilities such as canneries, cheese factories, condenseries, creameries and other such establishments for the processing, packing or manufacture of agricultural products, any portion of which are grown off-site.

**FOSTER HOME:** The primary domicile of a foster parent required to be licensed under Section 48.62, Wisconsin Statutes, which has four (4) or fewer foster children. [See Section 48.02(6), Wisconsin Statutes] (See also GROUP HOME).

**FRONTAGE:** The length of any one property line of a premises, which property line abuts a legally accessible road right-of-way. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage.

**GARAGE, DETACHED:** A building, not attached to a dwelling, designed and used for the storage of vehicles owned and used by the occupants of the dwelling to which it is accessory.

**GARAGE, STORAGE, OR OFF-STREET PARKING:** A building or portion thereof designed or used or land used exclusively for storage of motor vehicles, and in which motor fuels and oils are not sold, and motor vehicles are not equipped, repaired, hired or sold.

**GRADE:** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**GRADE, ESTABLISHED:** The established grade of the street or sidewalk as prescribed by the Town of Empire.

**GROOMING SHOP:** A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight.

**GROUP HOME:** Any facility operated by a person required to be licensed under Section 48.625, Wisconsin Statutes, for the care and maintenance of five (5) to eight (8) foster children. [See Section 48.02(7), Wisconsin Statutes] (See also FOSTER HOME).

**HOME OCCUPATION:** An accessory use of a dwelling unit or accessory building for gainful employment that is clearly incidental and subordinate to the use of the premises as a residence or customary farming occupation.

**HOTEL:** A facility offering temporary lodging accommodations on a daily rate to the general

public and generally providing additional services such as restaurants, meeting rooms and/or recreation facilities.

**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, glass, building materials, household appliances, brush, wood and lumber.

**JUNKYARD:** See SALVAGE YARD.

**KENNEL:** An establishment licensed to operate a facility housing dogs, cats or other household pets and where selling, grooming, breeding, boarding, training for a fee, letting for hire of animals is conducted as a business.

**KENNEL, PRIVATE:** Any building or buildings or land designed or arranged for the care of dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

**LAND AREA:** When referring to a required area per dwelling unit, means "net land area", the area exclusive of public rights-of-way and other public open space.

**LAUNDERETTE:** A business that provides coin-operated self-service type washing, drying, dry-cleaning, and ironing facilities, providing that no pick-up or delivery service is maintained.

**LOADING SPACE:** A space within the principal building or on the same lot as the principal building providing for the standing, loading or unloading of trucks and with access to a street or alley.

**LOT:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, having at least the minimum area required for a lot in the zone in which such lot is located.

**LOT, CORNER:** A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

**LOT, FLAG:** A lot with access provided to the bulk of the lot by means of a narrow corridor.

**LOT, INTERIOR:** A lot other than a corner lot or through lot.

**LOT, SUBSTANDARD:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, but having insufficient size to meet the lot width, lot area, yard, off-street parking areas, open space or other provisions of this Ordinance as pertaining to the district wherein located.

**LOT, THROUGH:** A lot having frontage on two (2) more or less parallel streets, which is not a corner lot. For the purposes of this Ordinance, both frontages shall be deemed front lot lines.

**LOT AREA:** The total horizontal area within the lot lines of a lot.

**LOT DEPTH:** The mean horizontal distance measured between the front and rear lot lines.

**LOT LINE, FRONT:** That boundary of a lot which abuts a street line. On a corner lot, the lot line having the shortest length abutting a street line shall be the front lot line.

**LOT LINE, REAR:** That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. Where the side property lines of a lot meet in a point, the rear lot line shall be assumed to be a line not less than ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**LOT LINE, SIDE:** Any lot line which is not a front or a rear lot line.

**LOT OF RECORD:** A lot whose existence, location and dimensions have been legally recorded or registered with the Register of Deeds of Fond du Lac County, Wisconsin on a plat or in a deed.

**LOT WIDTH:** The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first thirty (30) feet of lot depth from the street line.

**MAIN BUILDING FACADE:** That portion of a building or structure which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets the main building facade shall contain the main entrance to such building.

**MANUFACTURED HOME:** A factory-built, single-family structure that is manufactured in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (as evidenced by the presence of a manufacturer's certification label on the unit).

**MANUFACTURING ESTABLISHMENT:** An establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or resting of materials, goods, or products.

**MARQUEE OR CANOPY:** A roof-like structure of a permanent nature which projects from the wall of a building.

**MEDICAL OFFICE:** See OFFICE, MEDICAL.

**MOBILE HOME:** A transportable, factory-built home, designed to be used as a year-round residential dwelling that that was built prior to June 15, 1976, which was the effective date of the Federal Manufactured Housing and Construction and Safety Standards Act of 1974.

**MOBILE HOME PARK:** Any plot or plots of ground upon which two (2) or more manufactured homes or mobile homes are located that are occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation. [See Section 66.058(1e), Wisconsin Statutes].

**MOTEL:** A building or group of buildings containing lodging rooms, such building or buildings being designed, intended or used primarily for the temporary lodging of automobile travelers and providing automobile parking conveniently located on the premises. Motels are primarily distinguished from hotels by their accommodation of automobiles and automobile travelers.

**MOTOR VEHICLE:** Any automobile, pickup truck, truck, truck-trailer, trailer, semi-trailer, motorcycle, motor home or other passenger vehicle propelled or drawn by mechanical power.

**NONCONFORMING USE:** A lawful use of land and/or location of buildings or structures that does not comply with current land use regulations, but which complied with applicable regulations at the time the use was established.

**NONMETALLIC MINING or NONMETALLIC MINING OPERATIONS:** Operations or activities for the extraction from the earth of mineral aggregates, such as stone, decomposed granite, sand and gravel; nonmetallic minerals including, but not limited to asbestos, beryl, clay, feldspar, peat, talc and topsoil; related operations or activities including, but not limited to excavation, grading and dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals; and related processes such as stockpiling, crushing, screening, scalping, dewatering and blending.

**NOXIOUS MATTER OR MATERIAL:** A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

**NURSING HOME:** A home for aged, chronically ill, infirm, or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three (3) or more persons, not members of any family residing on the premises, are received and provided with food, shelter and care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

**OFFICE, MEDICAL OR PROFESSIONAL:** A professional office or offices, the principal use of which is for offices of physicians, chiropractors, dentists or other licensed health care practitioners for examination and treatment of persons on an outpatient basis, or offices for attorneys, accountants or other professional service providers.

**OFFICE, COMMERCIAL:** A building or portion thereof wherein services are performed involving predominantly managerial, administrative or clerical operations.

**OFFICIAL MAP:** The Official Map of the Town of Empire.

**OPEN SALES LOT:** Land used or occupied for the purpose of buying, selling, or renting merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes automobiles, trucks, motor scooters, motorcycles, boats or similar commodities.

**OPEN SPACE:** That part of the lot area not used for buildings, parking, or service. Open space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, pools, water courses, wooded areas and paved surfaces used as access drives but not used for vehicular parking of any kind.

**PARKING LOT:** A structure or premises containing five (5) or more parking spaces open to the public.

**PARKING SPACE:** An enclosed or unenclosed, area reserved for off-street parking for one motor vehicle and which is accessible to and from a street or alley.

**PARTIES OF INTEREST:** Shall, at a minimum, include the applicant, the owner of the subject property (if different than the applicant) and all adjacent property owners.

**PET SHOP:** An establishment wherein any person, partnership or corporation is engaged primarily in the retail sale of household pets and pet supplies.

**PERMIT ISSUER:** The officer or other designated authority charged with the administration and enforcement of this ordinance, or his/her duly authorized representative.

**PLANNING COMMISSION:** The Planning Commission of the Town of Empire, Wisconsin.

**PRINCIPAL USE:** See USE, PRINCIPAL

**PROFESSIONAL OFFICE:** See OFFICE, PROFESSIONAL.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING:** See NONMETALLIC MINING.

**RECREATION AREA:** A recreation area included park, playground, ball field, ski hill, sport field, swimming pool, golf course, commercial riding stables or riding academies or other facilities and areas constructed for recreational activities and open for use by public or private organizations.

**RETAIL:** The sale of goods or merchandise in small quantities to the consumer.

**ROADSIDE STAND:** An enclosed or semi-enclosed structure, no larger than 50 square feet in ground area, used or intended to be used for the sale of farm products solely by the owner or tenant of the farm on which such structure is located.

**ROADWAY:** That portion of a right-of-way that is used or intended to be used for the travel of motor vehicles.

**SALVAGE YARD:** An open area where junk, wastes, used, or secondhand materials are bought, sold, exchanged, stored, processed or handled. An Automobile Wrecking Yard is also considered a salvage yard.

**SANITARY LANDFILL:** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two (2) feet on the top surface and one (1) foot on the sides of the bank, which sides shall have a least 1:2 slope.

**SELF-SERVICE STORAGE FACILITY:** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and or personal goods.

**SETBACK:** The minimum horizontal distance between the roadway center line or road right-of-way, as applicable, and the nearest vertical wall or other element of a building or structure, excluding steps.

**SHORELAND JURISDICTION:** The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.

**SHORELAND WETLAND:** A wetland, as defined by this Ordinance, which is located within a shoreland area.

**SITE PLAN:** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

**SLOPE:** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

**SPECIAL EXCEPTION:** See USE, CONDITIONAL.

**STORAGE, OUTDOOR:** Land outside any building or roofed area and used for the keeping of goods, supplies, raw material or finished products.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders; except that the application of any exterior siding to an

existing building for the purpose of beautifying or modernizing shall not be considered a structural alteration. (See also ALTERATION).

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground. The term “structure” shall include, but not be limited to, buildings, signs, foundations, concrete and asphalt pads and equipment boxes.

**TAVERN:** An establishment where liquors are sold to be consumed on the premises but not including restaurants where the principal business is the serving of food.

**TEMPORARY STRUCTURE:** A movable structure not designed for human habitation nor for the permanent storage of goods or chattels.

**TOWN:** Town of Empire, Wisconsin.

**TOWN BOARD:** The Board of Supervisors of the Town of Empire, Wisconsin.

**TRAILER, BOAT or CARGO:** A vehicle designed exclusively for the transportation of one boat or less than 10 foot beam and 30 foot length or, if used for the hauling of cargo, not over seventy (70) square feet in cargo floor area.

**TREATMENT FOSTER HOME:** As defined in Section 48.02(17q), Wisconsin Statutes.

**TREE, CANOPY:** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are often referred to as shade trees.

**TREE, UNDERSTORY:** A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees.

**USE:** The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, ACCESSORY:** A use clearly incidental and subordinate to, and on the same lot as a principal use.

**USE, CONDITIONAL:** A use that would not be appropriate generally as a permitted use in the zoning district, but which may be allowed in the district after the imposition of special restrictions or requirements different from those usual restrictions for the district in which the use is located.

**USE, PERMITTED:** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL or PRIMARY:** The primary use of land or structures, as distinguished from a secondary or accessory use.

**UTILITIES, ESSENTIAL SERVICES:** Services provided by public or private utilities, necessary for the exercise of a principal use or service of a 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, pumps, lift stations and hydrants.

**UTILITIES, MAJOR:** Major public facilities serving community- or region-wide needs, such as water treatment plants, sewage disposal plants, municipal incinerators, municipal warehouses, landfills, shops and equipment and storage yards.

**UTILITIES, MINOR:** Public facilities such as water wells, water and sewage pumping stations, water storage tanks, electric power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, and buildings accessory thereto.

**VISION CLEARANCE TRIANGLE:** An area intended to be maintained in a manner which does not significantly obstruct a motorist's vision of an intersecting street.

**WATERCOURSE:** A permanent or intermittent stream channel.

**WETLAND:** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

**WOODLAND:** An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast (DBH) of at least ten (10) inches; or any grove consisting of fifteen (15) or

more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove. However, no trees grown for commercial purposes should be considered a woodland.

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

**YARD, FRONT:** The portion of the yard on the same lot as the principal building, located between the front line of the principal building extended to the side lot lines and the front lot line.

**YARD, REAR:** The portion of the yard on the same lot with the principal building, located between the rear line of the principal building extended to the side lot lines and the rear lot line.

**YARD, SIDE:** A yard extending along the side lot line between the front and rear yards.

**ZERO LOT LINE:** The location of a building on a lot such that one or more of the building's sides rests directly on a lot line.

**ZONING DISTRICT:** Areas delineated on the Zoning Map of the Town of Empire within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this Ordinance, and within which certain yards and other open spaces, lot areas, building sizes and density requirements may be required or regulated, or within which other such regulations are applied.