

**Zoning Ordinance
for
Town of Stark
Vernon County, Wisconsin**

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INTRODUCTION

SECTION 1.0

1.01 Authority

These regulations are adopted under the authority granted by Wis. Stats. 60.61. Therefore, the Town Board of Stark, Vernon County, Wisconsin, does ordain as follows:

1.02 Purpose

The purpose of this Ordinance is to promote the health, safety, prosperity, aesthetics and general welfare of this community.

1.03 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding panic, and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; and preserve and promote the beauty of the community. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

1.04 Abrogation and Greater Restrictions

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

1.05 Interpretation

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

1.06 Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.07 Title

This Ordinance shall be known as, referred to, or cited as the "ZONING ORDINANCE, TOWN OF STARK, VERNON COUNTY, WISCONSIN."

1.08 Effective Date

This Ordinance shall be effective after a public hearing, adoption by the Town Board and publication as provided by law. Upon passage by the Town Board this Ordinance shall be in effect in all unincorporated areas of the town when a certified copy of the approving resolution has been filed with the Town Clerk.

GENERAL PROVISIONS

SECTION 2.0

2.01 Jurisdiction

The jurisdiction of this Ordinance shall include all lands and waters in the unincorporated areas of the Town of Stark.

2.02 Compliance

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit except minor structures and without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.

2.03 The Duty of the Zoning Administrator

with the aid of the appropriate law enforcement agency, shall be to investigate all complaints, give notice of violations, and to enforce the provisions of this Ordinance. The Zoning Administrator and his duly appointed deputies may enter at any reasonable time onto any public or private land to make a zoning inspection.

2.04 Permit

Applications for a permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following:

1. Names and addresses of the applicant, owner of the site, architect, professional engineer or contractor.
2. Description of the subject site by lot, block, and recorded subdivision or by

metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure and the zoning district within which the subject site lies.

3. Proposed sewage disposal plan. If municipal sewerage service is not available this plan shall be approved by the Zoning Administrator who shall certify that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county and state health regulations.

4. A permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days. The permit shall expire within nine (9) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

2.05 Site and Use Restrictions

The following site and use restrictions and regulations shall apply:

1. All lots shall have access to a public road.
2. Private Sewer Systems. The lot area for uses requiring a private sewer system shall be determined in accordance with Section H65 of the Wisconsin Administrative Code unless the zoning district establishes a larger minimum lot size.
3. Principal Uses. Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.
4. Accessory Uses and structures are permitted in any district but not until their principal structure is present or under construction.
5. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Zoning Committee.
6. Unclassified or Unspecified Uses may be permitted by the Zoning Administrator after the Town Zoning Committee has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.
7. Temporary Uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator.
8. Performance Standards listed in Section 7.0 shall be complied with by all uses in all districts.

2.06 Reduction or Joint Use

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

2.07 Height Restriction

No structure or tower shall exceed 100 feet in height. Set back shall be equal to the height.

2.08 Farmers Activities

The Township recognizes farmers activities and gives them the right to spread manure, apply pesticides, herbicides, fungicides and seeding by aerial and ground methods any time day or night and shall include noises, odors, dust and fumes associated with farming practices.

2.09 Manufactured Homes

1. All manufactured homes shall be skirted from the home to the ground with the same type material as that from which the home is made.
2. The wheels must be removed.
3. Manufactured home sewage disposal systems must be approved by the County Sanitarian.
4. All manufactured homes shall be placed on a manufactured home stand or structural components that serve the same purpose as a manufactured home stand.

2.091 Manufactured Home Stand

For the purpose of this Ordinance, a manufactured home stand shall be defined as an area intended for the actual placement of the manufactured home on the lot. The stand shall provide adequate support and tie-down securing the home against uplift, sliding and overturning.

1. The home stand shall not heave, shift, or settle unevenly under the weight of the home due to frost action, inadequate drainage, vibration or other forces acting on the home. The method to be used shall be presented in plans to the Zoning Administrator at the time of permit application.
2. The home stand shall have anchors and tie-downs such as cast-in-place concrete deaden, eyelets embedded in concrete, screw augers, arrowhead anchors, or other devices securing the stability of the home.

3. Tie-downs shall be placed at each corner of the home.

2.10 Camping Trailers

1. Camping trailers, recreation vehicles, pickup toppers, motor homes and bus campers cannot remain on a parcel of unimproved property for more than a total of 90 days in a calendar year. If such a unit is kept on a parcel of property beyond 90 days, a permit may be issued by the Town of Stark Zoning Administrator, which allows the unit to remain on the parcel of property for that calendar year. A fee of \$500 will be charged for this permit. The fee is payable by April 1 or within 30 days of notice by the Zoning Administrator. If the permit fee is not paid by April 1 or within 30 days of notice, the fee will be added to the yearly property tax for the parcel of property. *NOTE: This ordinance change was adopted by the Stark Town Board on February 16, 2011. This ordinance change became effective on February 22, 2011.*

2. The placement of camping trailers, recreational vehicles, pickup toppers or buses shall be permitted on developed land.

3. Developed land must meet the following criteria:
- a. Must have an approved driveway.
 - b. Must have electricity at the site.
 - c. Must have an approved sanitary system.
 - d. Must have an approved well.
 - e. Only one camping unit allowed per property.

2.11 Driveway Permits

A Driveway Permit is required whenever a proposed private access road (private driveway) will intersect any public road in the Town of Stark.

1. If the proposed driveway will intersect a county or state highway, the Wisconsin Department of Transportation, the Vernon County Highway Department and/or the Vernon County Zoning Administrator will establish the rules and regulations regarding conditions for the permit and compliance with the permit.

2. If the proposed driveway will intersect a town road, the Town of Stark Zoning Administrator will issue the permit using the following regulations:

- a. The private driveway must be designed and constructed in such a way that it will not cause damage to the town road. In order to meet this requirement, the Zoning Administrator and the Town Patrolman will determine whether or not a culvert is required. The Zoning Administrator and the Town Patrolman will also determine the angle and slope of the intersecting portion of the driveway and whether any erosion control devices must be installed at or near the intersection in order to minimize damage to the public road. The minimum road width at the intersection shall be 20 feet, with a minimum width clearance of 24 feet. The minimum

height clearance, free of trees, wires, etc., shall be 14 feet. It shall have a roadbed of 6 inches, comprised of 2'3 inches of breaker rock covered with four inches of ¾ inch aggregate gravel at grade through the public right-of-way. The driveway within the public right-of-way shall slope away from the public road at a minimum of 1% and a maximum of 5% to prevent erosion onto the public road. The angle of any intersection of a town road and a driveway shall be 90 degrees for a minimum horizontal distance where possible of 33 feet from the intersection as measured from the center of the roadway. Any variance from these requirements must have prior approval from the Zoning Administrator.

3. The applicant must agree to comply fully with Wis. Stats. 66.0425 and 86.07 regarding correction of damage to public roads.

2.12 Minimum Driveway Requirements

A proposed driveway that serves a dwelling shall meet the minimum standards listed here throughout its length to allow for possible ingress of emergency vehicles:

1. Road width 12 feet.
2. Width Clearance 14 feet
3. Height Clearance 14 feet

2.13 Existing Driveways and Field Roads

1. When washing and other conditions created by existing driveways of field roads becomes a potential hazard to a public road, the Zoning Administrator or Town Board shall notify the owner(s) of the land through which the driveway passes of such condition(s). Any property owner failing to correct a hazardous situation immediately (within 24 hours or less) upon notification shall be subject to a penalty and shall be liable for any costs incurred by the Town of Stark to eliminate such hazard as provided in Wis. Stats. 66.60(16). Problems of a non-emergency nature shall be corrected in 30 days. Actions that will trigger the need to obtain a driveway permit for existing driveways or field roads include construction of a new residential, commercial, industrial or animal confinement structure.
2. When a driveway permit is issued or an existing driveway is approved, an address/fire number will be assigned to the location and a sign will be obtained and installed by the Town of Stark. The property owner shall pay the cost of the sign and its installation. New driveways will also be issued an address/fire number and sign in the same manner as described above.

3. A driveway shall be completed within 120 days of the start of construction. The Zoning Administrator may grant time extensions.

2.14 Fees and Procedures

Application for any driveway permit in the Town of Stark, including those that intersect a town road shall be made to the Zoning Administrator. The application will include a legal description of the property, a rough drawing of the proposed driveway site, and payment of the required fee. The Zoning Administrator will meet with the applicant at the site to discuss the specifics of the proposed driveway construction. Any specific requirements will be entered on the permit and permission will be given to begin construction. When the driveway is completed, the applicant will again meet with the Zoning Administrator on site for final inspection. If the driveway is properly constructed, the Zoning Administrator will approve the driveway in writing on the permit. The Driveway Permit fee (includes initial on-site inspection, additional inspections if needed, and final inspection and approval) shall be \$25.00.

2.15 Penalties

Any driveway constructed on land in the Town of Stark in violation of any of the provisions found in this section shall be deemed an unlawful driveway. Any person who constructs such an unlawful driveway in the Town of Stark shall be required to forfeit not less than \$10.00 or more than \$100.00 each day a violation continues without action being taken to remedy the situation. Any physical changes required by the Town of Stark to an unlawful driveway to bring the driveway into compliance with the terms of this Ordinance and the terms of the Driveway Permit will be made at the property owner's expense.

ZONING DISTRICTS

SECTION 3.0

3.01 Establishment of Districts

Four zoning districts are provided as follows:

1. Residential.
2. Farmland Preservation.
3. Business.
4. Industrial.

3.02 Boundaries of the Districts

Boundaries of the districts are hereby established as shown on a map entitled "Zoning Map, Town of Stark, Vernon County, Wisconsin" dated December 14, 1993 which

accompanies and is part of this Ordinance. Such boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, centerlines of streets, highways, alleys and easements, unless otherwise noted on the Zoning Map.

3.03 Vacation

Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

3.04 Zoning Map

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the Town Chairman and Town Clerk and shall be available to the public in the office of the Town Clerk.

3.05 Changes

Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

3.06 Rules for Interpretation of Zone Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.
4. Boundaries indicated as following "40" lines shall be construed as being on legal "40" lines.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the Scale of the Map.

3.07 Zone Regulations

No person shall use land or a building or structure or erect, construct, reconstruct, move or structurally alter a building, structure, or part thereof, except in conformance with the following regulations. Permitted uses in each zone shall be mutually exclusive except as otherwise indicated.

3.08 Residential District

1. PURPOSE.

- a. To establish residential uses in rural areas, and maintain a density allowing for efficient use of on-site sewage disposal systems and to permit orderly flow of vehicular traffic.
- b. To permit residential uses in a rural area without losing the essential qualities and character of the rural area, and the environment which many people seek in rural living.
- c. To guard against surface and subsurface water pollution.
- d. To protect the value of residential areas by regulating the incursion of incompatible residential and non-residential uses.
- e. To locate this zone in areas with a soil slope suitable for residential use without public sewer systems.

2. PRINCIPAL PERMITTED USES

- a. One single family home and no more than 2 accessory structures including a private garage.

3. ACCESSORY USES

- a. Essential services, household occupation and professional home office, storage building, private garage or parking areas.

4. CONDITIONAL USES

- a. Commercial riding and boarding stables, churches, schools, and other institutional uses, proposed duplexes, condominiums, town houses and apartment buildings.

5. PROHIBITED USES

- a. All uses not specifically permitted.

6. MINIMUM DWELLING SIZE

- a. 300 sq. feet living space.

7. MINIMUM LOT SIZE

- a. 2 acres.

8. MINIMUM LOT WIDTH

a. 200 feet at the set back line.

9. FRONT SET BACK

a. 30 feet.

10. REAR SET BACK

a. 30 feet.

11. SIDE SET BACK

a. 20 feet each side

12. SANITARY CRITERIA

a. Must be approved by the County Sanitarian.

13. PERCENT SLOPE

a. All construction upon, or alteration of, slopes over twenty percent (20%) must be approved by the Town Zoning Committee.

14. PERCENT SLOPE DRIVEWAYS

a. Refer to Sections 2.11 through 2.15.

3.09 Farmland Preservation District

1. PURPOSE

a. The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.

2. DEFINITIONS.

a. The following definitions apply in the Farmland Preservation District:

1. *Accessory use* means any use defined in Wis. Stats. 91.01(1).

2. *Agricultural use* means any of the following activities conducted for the purpose of producing an income or livelihood:

a. Crop or forage production.

b. Keeping livestock.

c. Beekeeping.

d. Nursery, sod, or Christmas tree production.

e. Floriculture.

f. Aquaculture.

g. Fur farming

h. Forest management.

i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation

- payment program.
3. *Agriculture-related use* means any of the following:
 - a. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
 - b. A facility integral to an agricultural use, regardless of whether the facility is located on a farm, that relies on agricultural uses conducted primarily off-site.
 - c. A facility used for providing veterinary services primarily to livestock, including the sale of supplies and pharmaceuticals related to animal husbandry.
 4. *Conditional use* means a use allowed under a conditional use permit issued by the political subdivision.
 5. *Crop* means a cultivated plant that includes any of the following:
 - a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans.
 - b. Fruits, including apples, grapes, cranberries, cherries, and berries.
 - c. Vegetables, including tomatoes, carrots, sweet corn, and squash.
 - d. Plants raised for culinary, medicinal, or aesthetic purposes, including herbs and spices, ginseng, and ornamental shrubs and trees.
 - e. Plants raised for energy production, including switchgrass or textile use, including cotton or bamboo.
 6. *Department* means Wisconsin State Department of Agriculture, Trade and Consumer Protection.
 7. *Farm* means all land under common ownership that is primarily devoted to agricultural use.
 8. *Farm family business* means a business operated by the owner or operator, or resident family member of the owner or operator, of a farm, that is not associated with an agricultural use, that requires no buildings, structures or improvements other than those described in Wis. Stats. 91.01(1)(a) or (c), that employs no more than 4 full-time non-family employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 9. *Farmland preservation agreement* means any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return for tax credits:
 - a. A farmland preservation agreement or transition area agreement entered into under Wis. Stats. 91.13 or 91.14.

- b. An agreement entered into under Wis. Stats. 91.60(1).
- 10. *Farmland preservation area* means an area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:
 - a. Identified as an agricultural preservation area or transition area in a farmland preservation plan described in Wis. Stats. 91.12(1).
 - b. Identified under Wis. Stats. 91.10(1)(d) in a farmland preservation plan described in Wis. Stats. 91.12(2).
- 11. *Farmland preservation plan* means a plan for the preservation of farmland in a county, including an agricultural preservation plan under Wis. Stats. Subch. IV of ch. 91.
- 12. *Farm residence* means any of the following structures that is located on a farm:
 - a. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following per twenty (20) contiguous acres owned:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm.
 - 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 - b. A migrant labor camp that is certified under Wis. Stats. 103.92.
- 13. *Forest management* means private forest lands and woodlands managed in accordance with any type of written management plan, including a plan prepared under the state's managed forest law.
- 14. *Livestock* means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- 15. *Owner* means a person who has an ownership interest in land.
- 16. *Permitted use* means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.
- 17. *Prior nonconforming use* means a land use that does not conform with this Ordinance but that existed lawfully before this Ordinance was enacted.
- 18. *Protected farmland* means land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

3. LAND USE IN THE FARMLAND PRESERVATION DISTRICT, GENERAL
 Only the following land uses are allowed in a farmland preservation zoning

district:

- a. Uses allowed under 4. as principal permitted uses.
- b. Uses allowed under 5. with a conditional use permit.
- c. Prior nonconforming uses, subject to Wis. Stats. 60.61(5).

4. PRINCIPAL PERMITTED USES

- a. Agricultural uses.
- b. Agriculture-related uses, including the following:
 1. A facility to provide agricultural supplies, equipment, fertilizers, pesticides or other agricultural input or services to farms.
 2. A facility to store, process, handle, or market raw agricultural commodities.
 3. A facility to slaughter or process livestock that were primarily kept off-site.
 4. A facility to process agricultural by-products or wastes produced primarily off-site.
 5. A manure digester, bio-fuel facility, or other facility that produces energy for use primarily off-site.
- c. Undeveloped natural resource and open space areas.
- d. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.
- e. Farm family business.
- f. Residences, regardless of occupancy, existing as of January 1, 2014.
- g. Accessory uses.

5. CONDITIONAL USES

- a. The Town of Stark may issue a conditional use permit for any of the uses described in 4.g. above if all of the following apply:
 1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 3. The use is reasonably designed to minimize conversion of land at and around the site of the use, from agricultural use or open space use.
 4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- b. Nonmetallic mineral extraction, if all of the following apply:
 - 1. The operation complies with Wis. Stats. Subchapter I, Chapter 295, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stats. 295.13 or 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.
 - 2. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - 3. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
 - 4. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - 5. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 6. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.

6. PROHIBITED USES

- a. All uses not specifically permitted. No agricultural operation shall have over 500 animal units of livestock or fowl. For proposed operations in excess of the maximum of 500 animal units, a conditional use permit may be issued following State of Wisconsin standards and procedures found in the administrative code at ATCP 51 (the Livestock Facility Siting Rule).
- b. No new building will be constructed or remodeled for farm animal use that is closer than 500 feet from an adjoining property line.

7. MINIMUM DWELLING SIZE

- a. 300 sq. feet living space.

8. MINIMUM LOT SIZE

- a. 20 acres.

9. FRONT SET BACK

- a. 30 feet, except for 6.b. above.

10. REAR SET BACK

- a. 30 feet, except for 6.b. above.

11. REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT
 - a. Except as provided in b. below, the Town of Stark may not rezone land out of the farmland preservation zoning district unless the Town of Stark Zoning Committee finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 2. The rezoning is consistent with any applicable comprehensive plan.
 3. The rezoning is substantially consistent with the county farmland preservation plan, which is in effect at the time of the rezoning.
 4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
 - b. A. above does not apply to any of the following:
 1. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Wis. Stats. ch. 91.
 2. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under Wis. Stats. ch. 91 which is in effect at the time of the rezoning.
 - c. By March 1 of each year the Town of Stark Zoning Committee shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection and to Vernon County a report of the number of acres that the Town of Stark has rezoned out of the farmland preservation zoning district under a. above during the previous year and a map that clearly shows the location of those acres.

3.10 Business District

1. PURPOSE
 - a. To delineate areas appropriate for commercial uses.
2. PRINCIPAL PERMITTED USES
 - a. One single family home, bakeries, barber shops, beauty shops, clinics, clothing stores, drug stores, fish markets, florists, food lockers, fruit and vegetable stores, gas stations, gift stores, grocery stores, hardware stores, hobby shops, laundry, meat markets, music stores, office supplies, optical stores, professional, governmental and business offices, retail stores, vehicular sales and service, funeral homes and bed and breakfasts.
3. ACCESSORY USES
 - a. Such uses as are necessary to the principal uses.

4. CONDITIONAL USES
 - a. Farm implement sales, campgrounds, manufactured home parks.
5. PROHIBITED USES
 - a. Junk yard, salvage yard, all uses not specifically permitted.
6. MINIMUM BUILDING SIZE
 - a. 700 sq. feet living space.
7. MINIMUM LOT SIZE
 - a. 5 acres.
8. MINIMUM LOT WIDTH
 - a. 200 feet.
9. FRONT SET BACK
 - a. 30 feet.
10. REAR SET BACK
 - a. 30 feet.
11. SIDE SET BACK
 - a. 20 feet.
12. SANITARY CRITERIA
 - a. Must be approved by the County Sanitarian.
13. PERCENT SLOPE
 - a. All construction upon, or alteration of, slopes over twenty percent (20%) must be approved by the Town Zoning Committee.
14. PERCENT SLOPE DRIVEWAYS
 - a. Refer to Sections 2.11 through 2.15.

3.11 Industrial District

1. PURPOSE
 - a. To delineate areas best suited for industrial development because of location, topography, existing facilities and relationship to other land uses. Uses incompatible with industry are not to be permitted.
2. PRINCIPAL PERMITTED USES
 - a. Manufacturing, processing, repairing or warehouses use, wholesale

establishment.

3. ACCESSORY USES

- a. Essential services.

4. CONDITIONAL USES

- a. Mineral extraction, planned development groups, junk and salvage yards under Sec. 4.03 herein, open storage, slaughter house and rendering works, stone quarries, sawmills.

5. PROHIBITED USES

- a. All uses not specifically permitted.

6. MINIMUM LOT SIZE

- a. 5 acres.

7. MINIMUM LOT WIDTH

- a. 200 feet.

8. FRONT SET BACK

- a. 30 feet.

9. REAR SET BACK

- a. 30 feet.

10. SIDE SET BACK

- a. 20 feet.

11. SANITARY CRITERIA

- a. Must be approved by County Sanitarian.

12. PERCENT SLOPE

- a. All construction upon, or alteration of, slopes over twenty percent (20%) must be approved by the Town Zoning Committee.

13. PERCENT SLOPE DRIVEWAYS

- a. Refer to Sections 2.11 through 2.15.

CONDITIONAL USES

SECTION 4.0

4.01 Conditional Use Permit

1. APPLICATION FOR A CONDITIONAL USE PERMIT

a. Any use listed as a conditional use or any use not specifically specified in this Ordinance shall be permitted only upon application to the Zoning Administrator who will transmit it to the Zoning Committee for their recommendation. The Zoning Committee's recommendation will then be given to the Town Board for approval or non-approval and if approved will instruct the Zoning Administrator to issue the Conditional Use Permit. Appeals of the Town Board's decision can be made through the Board of Adjustment.

b. Variances, zoning changes and special exceptions will be heard by the Zoning Committee which will make written recommendations to the Town Board which will make a determination on requested changes. There will be a \$200 filing fee for a Zoning Committee Meeting that deals with requests for variances, zoning changes, conditional use permits and special exceptions. *NOTE: Change in fee (as proposed by Zoning Committee meeting on 9/13/06)*

c. If a legal protest is made per Wis. Stats. 60.61(4)(c)2.a or b. the "three fourths" majority of the Town Board will mean that the full 3 member board must all approve for adoption of the change.

2. REQUEST FOR CONDITIONAL USE PERMIT BY NON-PROPERTY OWNERS

a. The Town Zoning Committee will meet to hear requests from non-property owners regarding property in the town only with a written request and permission from the owner(s) of the property in question.

NOTE: (As proposed by Zoning Committee meeting on 9/13/06).

3. STANDARDS APPLICABLE TO ALL CONDITIONAL USES

a. In passing upon a Conditional Use Permit the Town Zoning Committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Existing topographic and drainage features and vegetative cover on the site.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The appropriate use of land and conservation of natural resources.
7. The amount of liquid and solid waste to be generated and the adequacy of the proposed disposal systems.
8. The adequate provision of public facilities and utilities.

4. CONDITIONS ATTACHED TO CONDITIONAL USES

a. Upon consideration of the factors listed above, the Zoning Committee may attach such conditions, in addition to those required elsewhere in this

Ordinance, that it deems necessary in furthering the purposes of this Ordinance. Violation of any of these conditions shall be deemed a violation of this Ordinance.

b. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover, erosion and sedimentation control; increased setbacks and yard; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; parking and signs; type of construction or any other requirements necessary to fulfill the purpose and intent of this Ordinance.

c. In order to secure information upon which to base its determination the Zoning Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing contours, soil types, high watermark, groundwater conditions, bedrock, slope and vegetative cover.
2. Location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping.
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
4. Specifications for areas of proposed filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this Ordinance.

d. The Zoning Committee in evaluating applications shall, where appropriate, request the County Soil and Water Conservation District to make available expert assistance from those State and Federal agencies which are assisting said district under a memorandum of understanding and any other State or Federal agency which can provide technical assistance.

e. Before passing upon an application for a Conditional Use Permit the Zoning Committee shall hold a public hearing.

f. The Zoning Committee shall fix a reasonable time for the hearing of the appeal; giving a Class II notice, specifying the date, time and place of hearing and the matters to come before the Board; as well as mailed notices to the parties in interest. A decision regarding the appeal shall be made as soon as practicable.

4.02 Mineral Extraction

1. OPERATIONS

a. Mineral extraction operations including washing, crushing, or other processing are conditional uses and may be permitted in the Industrial District provided:

1. The Application for the conditional use permit shall include: an

adequate description of the operation; a list of equipment, machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of five (5) feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations; and a restoration plan.

2. The Restoration Plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Engineer, and the form and type of such sureties shall be approved by the Town's legal counsel.
3. The Conditional Use Permit shall be in effect for a period not to exceed two (2) years and must be renewed each two years thereafter. Modifications or additional conditions may be imposed upon application for renewal.
4. The Town Zoning Committee shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration plan for the site.

4.03 Junk and Salvage Yards

1. LICENSE REQUIRED

- a. No person shall use any building or premises for the buying, selling, gathering, delivery, shipping, storing or salvaging of old iron, bottles, paper, rags, farm machinery, vehicles or other materials commonly included in the term "junk" without obtaining a license for the operation of a junk and salvage yard. Storage of three or more unlicensed vehicles on the same premises (a business is exempt from this) shall be prima facie evidence of operation of a junk or salvage yard where such vehicles are not screened from a public highway or where they otherwise constitute a public nuisance.
- b. Application for a license shall be made in writing to the Zoning Administrator stating:
 1. The location and description of the premises to be licensed.
 2. The nature of the business to be conducted on the premises.
 3. The type of construction of any buildings to be used in

connection with the business.

4. The applicant's name and address, and, if a firm or corporation, the names and addresses of all officers thereof.

5. Evidence of compliance with all state requirements.

2. FEE, TERM

a. The fee for a license issued hereunder shall be (\$100.00) per year. Licenses shall expire twelve months after issue, but may be renewed by the Zoning Committee if it is satisfied that the license and the premises comply with this section.

3. HEARING

a. The Zoning Administrator shall refer an application for a license to the Zoning Committee which shall conduct a hearing of such application within a reasonable time, notice of which shall be given by publication in a newspaper having general circulation in the town at least once during the ten (10) days preceding the hearing. If the committee is satisfied from the evidence produced at the hearing, that the applicant is a fit person to conduct the business and that the premises are suitable therefore, the committee shall authorize issuance of the license.

4. LOCATION

a. No junk or salvage yard shall be located within five hundred (500) feet of any residence other than the owner or any residential or business district or one hundred and fifty (150) feet from a lake, river or stream.

b. No junk or salvage operations shall be carried on within one hundred and fifty (150) feet of any highway right-of-way.

5. OPERATION

a. The operation of the yard shall comply with all standards of Section 7.

SETBACK REQUIREMENTS

SECTION 5.0

5.01 Highway Setback Requirements

5.011 Highway Setbacks

No building or structure shall be erected, moved or structurally altered so as to project into a setback area. For the purposes of determining the distance buildings and other structures shall be set back from streets, and highways, the following classifications are given.

5.012 Class A Highways:

1. All state and federal highways are hereby designated as Class A highways.
2. The setback from Class A highways shall be the greater of 63 feet from the centerline of the highway or 30 feet from the right-of-way line.

5.013 Class B Highways:

1. All county trunks are hereby designated as Class B highways. For the purpose of this Ordinance any road will be considered as a county trunk after it has been placed on the County Trunk System by the County Board and approved by the Division of Highways.
2. The setback from Class B highways shall be the greater of 63 feet from the centerline of such highway or 30 feet from the right-of-way line.

5.014 Class C Highways:

1. All town roads, public streets, and highways not otherwise classified, are hereby designated Class C Highways.
2. The setback from Class C highways shall be the greater of 63 feet from the centerline of such highway or 30 feet from the right-of-way line.

5.015 Visual Clearance Triangle:

1. In each quadrant of every public street intersection there shall be a visual clearance triangle bounded by the street centerline and a line connecting points on them three hundred (300) feet from Class A Highway intersections, two hundred (200) feet from Class B Highway intersections, and one hundred fifty (150) feet from Class C Highway intersections.
2. Objects permitted within setback lines and visual clearance triangles:
 - a. Open fences.
 - b. Telephone, telegraph and power transmission poles, lines and portable equipment.
 - c. The planting and harvesting of field crops, shrubbery and trees except that no trees, shrubbery, or crops shall be planted within a visual clearance triangle so as to obstruct the view.

NONCONFORMING USES, STRUCTURES AND LOTS

SECTION 6.0

6.01 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; provided however:

1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
2. Total lifetime structural repairs or alterations shall not exceed fifty (50) percent of the assessed value of the structure at the time of the nonconforming use unless the Zoning Committee decides such improvement to the basic structure would be of benefit to insure acceptability with the neighboring uses, or it is permanently changed to conform to the use provisions of this Ordinance.

6.02 Abolishment of Replacement

1. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure shall conform to the provisions of this Ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50) percent of its current assessed value, it shall not be restored except so as to comply with the use of this Ordinance.

6.03 Existing Nonconforming Structures

1. The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, parking and loading and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

6.04 Changes and Substitutions

1. Once a nonconforming use of structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Committee has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal

nonconforming use and become subject to all the conditions required by the Zoning Committee.

6.05 Substandard Lots

1. In any residential district, a one-family detached dwelling and its accessory structure may be erected on any legal lot or parcel of record in the county Register of Deeds office before the effective date or amendment of this Ordinance.

2. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical.

PERFORMANCE STANDARDS

SECTION 7.0

7.01 Compliance

This Ordinance permits specific uses in specific districts, and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or districts. No structure or land shall hereafter be used except in compliance with their district regulations and with the following performance standards.

7.02 Noise

No operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 11:00 p.m. and 70 dBA from 11:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulation:

1. Noises not directly under the control of the property owner.
2. Noises from temporary construction or maintenance activities during daylight hours.
3. Noises from emergency, safety or warning devices.
4. Noises otherwise permitted elsewhere in this Ordinance.

7.03 Radioactivity

No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter I, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation", dated June 16, 1957, or any subsequent revisions or amendments.

7.04 Toxic or Noxious Matter

No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business, shall be permitted.

DEFINITIONS

SECTION 8.0

8.01 Definitions

For the purposes of this Ordinance, the following definitions shall be used, unless they conflict with definitions set out elsewhere in this Ordinance, in which case the more specific definition shall control. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not optional.

1. *Accessory use or structure* means a use or detached structure subordinate to the principal use of a structure or land and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
2. *Building* means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, or machinery.
3. *Building area* means the total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.
4. *Camping trailer* means a portable vehicle designed and used for temporary sleeping purposes while its occupants are engaged in a pastime of camping.
5. *Centerline* means a line equidistant from the edges of the median separating the main-traveled ways of an existing or planned divided road or highway or the centerline of the main-traveled way of a non-divided road or highway.
6. *Conditional uses* means uses of a special nature as to make impractical their predetermination as a principal use in a district.
7. *Driveway* means a private road that gives access to private property from a public roadway.
8. *Dwelling* means a detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses,

motels, hotels, tents, cabins, or mobile homes.

9. *Essential services* means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or over-head gas; electrical; steam; water; sanitary sewerage; storm water drainage; communication systems; and accessories thereto, such as poles, tower wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, and cables.

10. *Family* means any number of persons related by blood, adoption, or marriage, or not to exceed four (4) persons not so related, living together in one dwelling as a single housekeeping entity.

11. *Frontage* means the smallest dimension of a lot abutting a public street measured along the street line.

12. *Household occupation* means any business or profession carried on only by a member of the immediate family residing on the premises and meeting the following requirements:

- a. The home occupation shall be conducted only within the enclosed area of the dwelling unit or detached structure.
- b. There shall be no exterior alterations which change the character of the building and/or exterior evidence of the home occupation other than those signs permitted in the district.
- c. No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
- d. No use may create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
- e. Only one sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated.
- f. The Town Board may determine the percentage of the property that may devoted to the occupation
- g. The types and number of equipment or machinery may be restricted by the Town Board.
- h. Sale or transfer of the property shall void this use.
- i. Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.

13. *Intersection* means the portion of the driveway that passes through the public right-of-way to the town roadway.

14. *Junk yard* means area consisting of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

15. *Local highway* means roads which are intended to move vehicles from individual parcels to the higher order road systems, and should not carry through traffic. Local roads carry low traffic volumes.

16. *Lot* means a parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance.

17. *Lot lines and area* means the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

18. *Lot width* means the width of a parcel of land measured at the rear of the specified street yard.

19. *Manufactured home* means any structure originally designed to be capable of transportation by any motor vehicle upon a public highway which does not require substantial on-site fabrication; which is intended for occupancy as a year round residence.

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

21. *Parties in interest* means and includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

22. *Rear yard* means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the front yard or one of the front yards on a corner lot.

23. *Side yard* means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal street.

24. *Structure* means any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

25. *Structural alterations* means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

26. *Town road right-of-way* means the town road right-of-way in the Town of Stark and is presumed to be four rods in width unless originally deeded to the Town with a lesser width specified.

27. *Utilities* means public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

28. *Variance* means where strict application of the Ordinance would result in a practical difficulty or unnecessary hardship, an exception may be granted by the Zoning Board of Appeals, or Adjustment.

ADMINISTRATIVE PROVISIONS

SECTION 9.0

9.01 Zoning Administrator

There is hereby created the Office of Zoning Administrator. The Zoning Administrator may exercise the following duties and powers:

1. Issue permits and inspect properties for compliance with the Ordinance.
2. Keep records of all permits issued, inspections made, work approved, and other official actions.
3. Send a copy of the building application to the assessor.
4. Have access to any structure or premises for the purpose of performing his duties.

5. Make on-site investigations required for zoning administration.
6. Report violations of this Ordinance and other applicable regulations to the Zoning Committee and District Attorney.

9.02 Permit

9.021 Cases When a Permit is Required

1. Before any building or other structure is erected, moved or structurally altered so as to change its use or increase its floor area.
2. Before any land use is substantially altered.

9.022 Cases Where a Permit is Not Required

A permit shall not be required in the following instances provided that the proposed use is permitted in the zoning district in question:

1. For any accessory building costing one thousand dollars (\$1000) or less, provided such building conforms to all the setback, yard and open space requirements of this Ordinance.
2. For any improvements or alterations to an existing building in the amount of one thousand dollars (\$1000) or less which shall not effect a structural change in the use or encroach upon any yard or open space.
3. For any maintenance repairs regardless of cost.

9.023 Application for Permit

An application for a permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of the applicant and property owner.
2. Legal description of the property and type of proposed use.
3. A sketch showing the dimensions of the lot and location of buildings from the lot lines.

9.024 UDC Inspection of New Single-family Residences

A Uniform Dwelling Code state-certified inspector must inspect all new construction of single-family residences. The Town of Stark has contracted for the services of a state-certified inspector who will perform the inspection. The homebuilder will pay the

UDC Inspection Fees directly to the inspector contracted by the Town.

9.03 Fees

The applicant, upon filing of his or her application, shall pay a fee to the Zoning Administrator in accordance with the following schedule:

1. Permit for new construction of a single-family residence - \$100.00.
2. Permit for outbuildings - \$50.00
3. Driveway permit - \$25.00
4. Fire sign fee - \$50.00

9.04 Town Zoning Committee

The Town Board shall appoint a Town Zoning Committee according to Wis. Stats. 60.61 (4). The Town Zoning Committee shall have the duties, responsibilities and authority and shall follow the procedures set out by the Wisconsin statutes.

9.05 Board of Adjustment

The Town Board shall appoint a Board of Adjustment according to Wis. Stats. 60.65. The Board of Adjustment shall have the duties, responsibilities and authority, and shall follow the procedures set out by the Wisconsin statutes.

CHANGES AND AMENDMENTS

SECTION 10.0

10.01 Amendments

The Town of Stark may amend this Ordinance following the procedures prescribed by Wis. Stats. 60.61.

ENFORCEMENT

SECTION 11.0

11.01 Zoning Administrator

The Town of Stark shall designate a Zoning Administrator, and shall further designate this Zoning Administrator to enforce this Ordinance by means of permits of which the cost shall be established by the Town Board.

11.02 Zoning Administrator Duties

The Zoning Administrator shall not issue a permit for a structure or a use that is not allowed by this Ordinance. No structure shall be built, moved, or altered until a permit has been issued. This does not remove the necessity of obtaining a sanitary permit if

waste water disposal is to be a part of the building's function.

11.03 Violations

It shall be unlawful to construct or use any structure or land in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, the Zoning Administrator, the Board of Adjustment, or any person who would be specifically damaged by such violation may institute appropriate action or proceed to enjoin a violation of this Ordinance.

11.04 Penalties

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall upon conviction thereof pay a fine of \$20.00 for each offense. Each day a violation exists or continues shall constitute a separate offense.