

TITLE 16

[Link to Index](#)

Zoning Ordinance

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Town of Oshkosh Planning and Zoning Commission

Town of Oshkosh Zoning Ordinance

Chapter 1	Introduction, Definitions.....p. 6
16-1-1	Authority
16-1-2	Purpose
16-1-3	Intent
16-1-4	Abrogation and Greater Restrictions
16-1-5	Interpretation
16-1-6	Severability
16-1-7	Effective Date
16-1-8	Maps
16-1-9	Title
16-1-10	Definitions
Chapter 2	General Provisions.....p. 23
16-2-1	Jurisdiction
16-2-2	Compliance
16-2-3	Zoning Permit
16-2-4	Building Permits
16-2-5	Certified Survey Maps (CSM)
16-2-6	Certification of Compliance
16-2-7	Site Restrictions
16-2-8	Surface Water Drainage
16-2-9	Use Restrictions

- 16-2-10 Sanitary Regulations
- 16-2-11 Reduction or Joint Use
- 16-2-12 Violations
- 16-2-13 Penalty

Chapter 3

Zoning Districts.....p. 36

- 16-3-1 Residential Districts Interpretation
- 16-3-2 Residential Conditional Uses
- 16-3-3 Residential Accessory Uses
- 16-3-4 R-1 Residential District (Nonsubdivided)
- 16-3-5 R-2 Suburban Residential District (Subdivided)
- 16-3-6 R-3 Two Family Residential District
- 16-3-7 R-4 Multiple Family Residential District (Sewered)
- 16-3-8 R-5 Planned Residential District (Sewered)
- 16-3-9 MH-1 Mobile Home District (Subdivided Sewered)
- 16-3-10 G1 Garage Lot District Floating
- 16-3-11 Business Districts Interpretation
- 16-3-12 Business Conditional Uses
- 16-3-13 Business Accessory Uses
- 16-3-14 B1 Local Service District
- 16-3-15 B2 Community Business District
- 16-3-16 B3 General Business District
- 16-3-16-A Adult Oriented Establishment
- 16-3-16-B Body Piercing Establishment

- 16-3-16-C B4 Business Park District (Sewered Only)
- 16-3-17 P-1 Institutional & Recreational Park District
- 16-3-18 Agricultural Conditional Uses
- 16-3-19 Agricultural Accessory Uses
- 16-3-20 A-1 Agri-Business District
- 16-3-21 A-2 General Farming
- 16-2-21-A Agricultural Develop Overlay District (ADO)
- 16-3-22 Industrial Conditional Uses
- 16-3-23 Industrial Accessory Uses
- 16-3-24 M-1 Light Industrial District
- 16-3-25 M-2 Heavy Industrial District
- 16-3-26 M-3 Extraction or Landfill District
- 16-3-27 Wireless Communications Facilities Ordinance
- 16-3-28 Wind Turbines
- 16-3-29 Shoreland District

Chapter 4

Conditional Uses.....p. 100

- 16-4-1 Application
- 16-4-2 Hearing a Notice
- 16-4-3 Standards for Review of Applications
- 16-4-4 Review and Approval
- 16-4-5 Decision and Expiration of Use
- 16-4-6 Approval of Building, Site and Operational Plans *
- 16-4-7 Revocation of Permit

Chapter 5 **Traffic and Parking Regulations.....p. 106**

- 16-5-1 Traffic Visibility
- 16-5-2 Loading Requirements
- 16-5-3 Parking Requirements
- 16-5-4 Number of Parking Spaces Required
- 16-5-5 Driveways

Chapter 6 **Modifications.....p. 109**

- 16-6-1 Heights
- 16-6-2 Yards
- 16-6-3 Existing Development District (Floating)

Chapter 7 **Sign Regulations.....p. 113**

- 16-7-1 Intent
- 16-7-2 Purpose
- 16-7-3 Permits Required
- 16-7-4 Signs Excepted
- 16-7-5 Business Signs Permitted (on premises)
- 16-7-6 Off Premises Signs Permitted
- 16-7-7 Non-Conforming Sign
- 16-7-8 Informational Signs
- 16-7-9 Facing
- 16-7-10 Shape and Illumination
- 16-7-11 Dilapidated, Unmaintained and Abandoned Signs

16-7-12 Distance Standards

16-7-13 Parking Signs

Chapter 8 Non-Conforming Uses Structures and Lots.....p. 120

16-8-1 Legislative Findings

16-8-2 Official Registry of Nonconforming Lots,
Structures, Signs, and Uses

16-8-3 Nonconforming Lots

16-8-4 Nonconforming Structures

16-8-5 Nonconforming Uses

16-8-6 Nonconforming Conditional Uses

16-8-7 Special Provisions for Nonconforming
Boathouses

16-8-8 Special Provisions for Nonconforming
Signs

16-8-9 Special Provisions for Nonconforming
Outdoor Shooting Ranges

16-8-10 Special Provisions for Nonconforming
Mobile Homes and Manufactured Homes

Chapter 9 Performance Standards.....p. 125

16-9-1 Compliance

Chapter 10 Changes and Amendments.....p. 127

16-10-1 Authority

16-10-2 Protest

16-10-3 Standards for Rezoning in A-1 Agri-Business

16-10-4 Severability

**Chapter 11 Illicit Discharge and Connection Ordinance refer
to Town of Oshkosh Stormwater Ordinance.....p.128**

Chapter 12 Violations, Enforcement and Penalties.....p. 129

16-12-1	Violations
16-12-2	Warning Notice
16-12-3	Notice of Violation
16-12-4	Suspension of MS4 Access
16-12-5	Appeal of Notice of Violation
16-12-6	Enforcement Measures After Appeal
16-12-7	Cost of Abatement of the Violation
16-12-8	Violations Deemed a Public Nuisance
16-12-9	Remedies Not Exclusive

Chapter 13 **Board of Appeals.....p. 134**

16-13-1	Establishments
16-13-2	Membership
16-13-3	Organization
16-13-4	Appeals
16-13-5	Automatic Stay
16-13-6	Hearings
16-13-7	Powers
16-13-8	Decisions
16-13-9	Appeal of Decisions
16-13-10	Adoption of Ordinance

Informational Appendix

Title 16 – Chapter 1

INTRODUCTION

16-1-1 AUTHORITY.

This Ordinance is adopted under the authority granted by Sections 59.97, 60.18 (12), 60.29 (21), 60.74 (7), 61.35 and 62.23 of the Wisconsin Statutes. The Town Board of the Town of Oshkosh, Winnebago County, Wisconsin, do ordain as follows:

16-1-2 PURPOSE.

The purpose of this Ordinance is to promote the health, safety, morals, beauty, aesthetics and general welfare of this Town.

16-1-3 INTENT.

The general intent of this Ordinance is to produce a uniform zoning format for the Town of Oshkosh.

16-1-4 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this Ordinance to interfere with, abrogate or annul any existing easements, covenants or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or rules, regulations or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises. However, whenever this Ordinance, or The Town of Oshkosh Subdivision Ordinance imposes greater restrictions, the provisions of this Ordinance shall control. In addition, the provisions of the Winnebago County, Wisconsin, Shoreland/Flood Plain, Subdivision and Airport Zoning Ordinances, as adopted by said County as of the date of this Ordinance and as they may later be amended are incorporated by reference. Whenever the Winnebago County Shoreland/Flood Plain, Subdivision or Airport Zoning Ordinances conflict with applicable underlying provisions of this Zoning Ordinance or the Town of Oshkosh Subdivision Ordinance, the more restrictive combinations of such ordinances shall govern.

16-1-5 INTERPRETATION.

The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, and general welfare of the Town of Oshkosh, Winnebago County, Wisconsin, and shall be liberally construed in favor of the Ordinance.

16-1-6 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.

16-1-7 EFFECTIVE DATE.

This Ordinance shall be effective as of 12:01 A.M., on the day after the last to occur of: enactment by the Town Board of the Town of Oshkosh; approval by the County Board of Winnebago County, pursuant to §60.74(7) of the Wisconsin Statutes, of the exercise of Town zoning; and publication.

16-1-8 MAPS.

Where any map is referred to in this ordinance and said map is a digital compilation within the Winnebago County Geographic Information System (WINGS), said digital map shall be the regulatory map for purposes of enforcement of this ordinance.

16-1-9 TITLE.

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

16-1-10 DEFINITIONS.

For the purpose of this Ordinance, the definitions set forth in this section shall be used. Words used in the present tense include the future. The singular number includes the plural number; the plural number includes the singular. The word "shall" is mandatory and not permissive. For technical terms not defined in this section, the definitions of ASPO Report No. 322 are incorporated by reference. Shoreland definitions set forth in Chapter NR 116 of the Wisconsin Administrative Code are incorporated by reference.

ACCESSORY USE OR STRUCTURE

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

ADVERTISING SIGN

A sign, including, but not limited to, a billboard, which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located.

AIRPORT

The Wittman Field Airport and all County land area associated with same as located in Sections 34 and 35, T18N, R16E and Sections 2 & 11, T17N, R16E, Winnebago County, Wisconsin, and other existing airports in the Town of Oshkosh.

AIRPORT HAZARD

Any structure object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

ALLEY

A special public right-of-way affording only secondary access to abutting properties.

ANIMAL GROOMING

Where not involving any kennel uses, shall be the equivalent of a barbershop, or beauty salon for animals.

BOARDING HOUSE

A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

BOATHOUSE

Any structure designed for the purpose of protecting or storing boats for non-commercial purposes and without provision for human habitation.

BUILDABLE AREA

The space remaining on a lot after the minimum open-space requirements and yard setbacks have been met.

BUILDING

Any structure having a roof supported by columns or walls used or intended to be used for shelter or enclosure of persons, animals, equipment, machinery or materials.

BUILDING AREA (synonymous with floor area)

The total living area bounded by the exterior walls of a building at each floor level, but not including basement, garages, porches, breezeways, and unfinished attics.

BUILDING HEIGHT

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges or gable, gambrel, hip and pitch roofs, or to the deck line of mansard roofs except where otherwise specified in other sections of this ordinance.

BULKHEAD LINE

A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources,

pursuant to Section 30.11 of the Wisconsin Statutes. Filling and development is only permitted to the landward side of such bulkhead line.

BUSINESS SIGN

A sign pertaining to goods sold or manufactured or services rendered on the premises upon which the sign is located.

BY-PASS CHANNEL

A channel formed in the topography of the earth's surface to carry storm water runoff through a specific area.

CAMPGROUNDS

As defined in Wisconsin Administrative Code Chapter HFS 178.

CERTIFICATE OF COMPLIANCE

Official certification that a premise conforms to the provisions of the zoning ordinance (and, if applicable, the town building code).

CHANNEL

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

CLINIC - MEDICAL OR DENTAL

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

CLOTHING STORES

Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.

COMMITTEE

Means the Town of Oshkosh Planning & Zoning Committee unless the context clearly means otherwise.

CONDITIONAL USES

Use of a special nature as to make impractical their predetermination as a principal use in a district.

CONDOMINIUM

A structure having two (2) or more dwelling units, each assigned to individual ownership, but located on a lot having common ownership and use arrangement.

CONSERVATION STANDARDS

Guidelines and specifications for land and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of

Agriculture, Land Conservation Service, for the County, adopted by the County Land and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the landowner selects that alternative which best meets his needs in developing his land and water conservation plan.

CONVERSION

Changing the original purpose of a building to a different use.

CORRIDORS, ENVIRONMENTAL

Those contiguous lands which contain a significant grouping of sensitive lands, such as wood lots; streams; wildlife areas such as wetlands, marshes, bogs, native vegetation, etc. which form an elongated pattern that tie these lands together into broad corridors having outstanding quality for the enhancement of the scenic and natural environment of the Town of Oshkosh.

DEVELOPMENT

Any activity which results in an alteration of either land or vegetation, except farming and normal grading and filling, for purposes of changing to or intensifying existing uses in agricultural, residential, business, recreational, institutional, or industrial property.

DIGITAL COMPILATION

An electronic method of mapping and storing map and text data in a raster, vector, text, or similar format within a computerized records system.

DIRECTIONAL SIGN

An on-premises sign for the purposes of directing patrons or attendants to a business establishment, club, church, or other such organization, off the main traveled highway (without advertising, text, or art).

DITCHING

The creation or maintenance of a channel-like land area designed or used for carrying surface water runoff, including snow melt, from one location to another. Ditching does not include municipal work within public rights-of-way, nor such things as vegetation removal or planting.

DRAINAGE

A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied herein to surface water.

DWELLING UNIT

A structure having provisions for living, cooking, sanitary and sleeping facilities, arranged for the use of one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others. If two living areas have separate exiting and no common use areas, then they are separate dwelling units.

DWELLING - SINGLE (ONE) FAMILY *

A permanent structure - placed on a permanent foundation, having one (1) or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others. The structure shall be located on a private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes. In no event shall a mobile home be considered as a single family dwelling.

DWELLING - TWO FAMILY (DUPLEX)*

A permanent structure having two (2) dwelling units combined into one structure. The structure shall be located on one (1) private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes. In no event shall a mobile home be considered as a two family dwelling.

DWELLING - MULTI-FAMILY (APARTMENT)

A permanent structure having three (3) or more dwelling units - combined into one structure - for occupancy by three (3) or more families.

EFFICIENCY

A single family dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

ESSENTIAL SERVICES (On-site or Public)

Services provided by public and private utilities, necessary for the reasonable exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam and water services, 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 pumps, lift stations, and hydrants, but not including buildings used or intended to be used for human habitation.

EXCAVATION

Any act by which organic matter, earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

FAMILY

Any number of persons living together and cooking on the premises as a single house - keeping unit together with all necessary employees of the family.

FARM.

A parcel or parcels of land, of at least 5 acres, upon which an individual, family or corporation conducts farm operations as an occupation. Classification as a farm shall

be based upon criteria cited in determination of intent, Chapter 3.21 (2). The mere use of the land as pasture, enrollment in a Federal or State —set- sidell type program, planting of trees, etc., does not automatically qualify the property as a farm.

FARM OPERATION.

The planting and cultivating of the soil and the growth of farm products substantially all of which have been planted, produced, or raised on the property.

FARM PRODUCTS

Agricultural, horticultural and arboricultural crops. Animals considered within the definition of agricultural include livestock, stable animals, bees, poultry, fur-bearing animals, and wildlife or aquatic life.

FENCE

Any artificially constructed barrier or berm of any material or combination of materials erected to enclose or to screen areas of land.

FILL/FILLING

Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.

FLOATING ZONE (unmapped)

A zoning district whose requirements are fully described in the text of the ordinance, but which is unmapped. It is "anchored" to the land in response to an application for a zoning permit when the standards of the floating district are met. It then overlays the previous zoning designation.

FLOOD PLAIN

The land adjacent to a body of water which has been or may be hereafter covered by flood water, as defined by chapter NR115 of the WI Administrative Code.

FLOODWAY

The channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

FRONTAGE

The smallest dimension of a lot abutting a public street measured along the street lines.

GRADE/GRADING

The alteration of the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.

GRADE (HOUSE)

The final ground surface elevation, after construction, at the point where the exterior walls of the structure either meet or emerge from the ground except where floodplain requirements apply. Sloping sites will have more than one grade as appropriate. This point shall normally be the highest elevation of the building site.

GARAGE (PRIVATE)

A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles, recreational vehicles, boats, yard equipment, etc., of the families residing at the premises upon which the garage is located. Carports shall be considered garages within this definition.

GARAGE (Attached)

A private garage sharing a common wall with the principal structure, or being attached to the principal structure with a fully enclosed breezeway.

GARAGE (Public or Commercial)

Any garage not falling within the definition of "private garage" as herein established, and used for storage, repair, rental or servicing of motor vehicles, recreational vehicles, boats, and yard equipment.

HOBBY FARM.

A parcel of land 5 acres or larger upon which an individual or family conducts farm operations but their primary use of the property is not related to farm operations on the parcel. Classification as a hobby farm shall be based upon criteria cited in determination of intent, Chapter 3.21(2).

HIGH WATER ELEVATION (Ordinary high water mark)

The average annual high water level of a pond, stream, lake, flowage, or wetland referred to on an established datum plane or, where such elevation of the line up to which the presence of the water is so continuous as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristics.

HISTORICAL STRUCTURES

A structure or site that (a) has been designated as historic and placed on a Register of Historic Places, or, (b) a structure, unique natural feature, site, or similar occurrence. Designation as a historic structure for the purposes of this ordinance, in either case, shall be by the Town of Oshkosh Planning & Zoning Committee (hereinafter Committee), provided that the designation shall not be made for structures moved into the Town from outside the County unless clear and convincing evidence can be presented documenting the structures origin within Town of Oshkosh.

HOUSEHOLD OCCUPATION

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed fifty (50) percent of the area of only one floor of the residence, and uses only household equipment. A household occupation does not include display of goods.

INFORMATION SIGNS

Onsite signs necessary for traffic flow and/or operation such as function directional arrows, parking designation areas, entrance/ exit identification, etc.

KENNEL, COMMERCIAL AND ANIMAL HOSPITALS

An establishment where animal pets (not part of the actual household on the lot on which the facility is located) are raised, bred or boarded and/or medically treated.

LANDSCAPE BUSINESS

A business characterized by office facilities, indoor or outdoor storage of landscaping material and/or earthmoving equipment, with or without retail sales.

LIVING ROOM

All rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

LOADING AREA

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

LOT

A contiguous parcel of land having a minimum of thirty three (33) feet of 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.

LOT LINES AND AREA

The peripheral boundaries of a parcel or lot and the total area lying within such boundaries.

LOT WIDTH

The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth of such lot from its road or street frontage or other access to a public right of way. On irregularly shaped lots, the width shall be the average width of the lot within five (5) percent of the minimum required width. (Average width according to Ch. H65 Wisconsin Administrative Code.)

MANUFACTURED HOME

A structure substantially constructed off-site meeting minimum provisions for dwellings and meets all of the following criteria:

- (a) Transportable in one or more sections.
- (b) Built on a permanent chassis.
- (c) Placed on a permanent foundation.
- (d) Connected to utilities (plumbing, heating, gas, electrical).
- (e) Constructed on or after June 15, 1976 in accordance with U.S. Housing and Urban Development standards and identified with a H.U.D. seal of approval.

MINOR STRUCTURES

Any small, movable accessory erection or construction such as tool houses, pet houses, play houses, ice shanty, and arbors, no more than eight (8) feet in height with no more than one hundred (100) square feet of building area. Not to exceed a total of three (3) per lot.

MOBILE HOME**

Constructed prior to June 15, 1976, a vehicle designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of forty five (45) feet.

MOBILE-MOUNTED SIGN

A temporary sign which is mounted or designed for mounting on wheels or a temporary platform.

MODEL HOME, GARAGE

A building which is constructed or located and used as an example of other such buildings which are offered for sale. The model itself is customarily not currently for sale or occupancy and may in some instances be only temporarily positioned on the site. The model differs from a "spec" building which is one that is permanently positioned on a site and is or will be available for immediate sale and occupancy.

MODULAR HOME.

A structure substantially constructed off-site meeting minimum provisions for dwellings and meets all of the following criteria:

- a. transportable in one or more sections.
- b. built on a permanent chassis.
- c. placed on a permanent foundation.
- d. connected to utilities (plumbing, heating, gas, electrical)
- e. constructed in accordance with Wisconsin Uniform Dwelling Code and identified with a Wisconsin Insignia.

NAVIGABLE WATERS.

Means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other water which are navigable under the laws of this state. Under section 144.26(2)(d), Wisconsin Statutes, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 59.971, Wisconsin Statutes, and NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river.
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

NON-CONFORMING USES OR STRUCTURES

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 non-conforming structure and not a non-conforming use; provided, however, that an existing principal structure and attached garage(s) that is located 30 feet or more from road right-of-way and 7 feet or more from side lot lines shall be deemed a legal use for purposes of determining the area setback requirements contained in this Ordinance.

OBSTRUCTION

Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire fence, rock gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OPEN SPACE

An unoccupied space open to the sky on the same lot as the principal structure or development which is in addition to other required yard areas and which is not used for parking or driveway purposes.

ORDINARY HIGH WATER MARK.

The water level of a pond, stream, lake, flowage, or wetland referred to on an established datum plan where the presence of the water is so continuous as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristics.

OUTDOOR STORAGE

The keeping of materials, equipment, product(s) or their components, outside of a structure. Customary accessory storage such as waste receptacles, or business

vehicle parking shall not be considered outside storage provided the principal structure is present and said storage is directly associated with the principal use.

OVERLAY ZONE

Zoning requirements that are described in the ordinance text, mapped, and are imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

PARKING LOT

A structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

PARKING SPACE

A graded and surfaced area of not less than one-hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PARTIES OF INTEREST

Includes all abutting property owners, all property owners within three-hundred (300) feet, and all property owners of opposite frontages.

PASSIVE RECREATION

Properties that allow for participation in recreational activities and which have a minimal impact on the site's resources.

PIERHEAD LINE

A boundary line established along any section of the shore or any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to Section 30.13 of the Wisconsin Statutes. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to Section 30.12 (2) of the Wisconsin Statutes.

PRINCIPAL USE

The main use of land or structures as distinguished from a secondary or accessory use.

PRIVATE OR QUASI-PUBLIC CLUB

An association of persons organized for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

PRIVATE ROAD

Any road or drive other than a public street or highway which serves two (2) or more principal structures.

PROFESSIONAL HOME OFFICES

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, farmers, or other recognized professions used to conduct such professions in which the office does not exceed one-half (1/2) the area of only one (1) floor of the residence and no more than two (2) nonresident persons are employed for the conduct of such profession.

REAR YARD

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 line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

RECREATIONAL VEHICLE

Recreational vehicle means any of the following, whether it is "dependent" -requires camp facilities for toilet and lavatory, or "self-contained" - can operate independent of connections to sewer, water and electrical systems:

- (a) Camping trailer. A canvas or folding structure mounted on wheels and designed for travel, recreation and vacation use.
- (b) Motor-home. A portable temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- (c) Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- (d) Travel trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses and permanently identified as a travel trailer by the manufacturer of the trailer.
- (e) Tent. A portable lodge of canvas or strong cloth, stretched and sustained by poles.
- (f) Any similar vehicle, unit, etc., which is less than forty-five (45) feet in length.

RESIDENTIAL AGRICULTURAL.

A parcel of land less than 5 acres upon which an individual or family may conduct farm operations, but the primary use of the property is for residential purposes. Classification as residential agricultural shall be based upon the criteria as cited in determination of intent, Chapter 3.21

RETENTION BASIN

A pond-type facility which provides for storage or storm-water runoff and controlled release of this runoff during and after a flood or storm.

ROAD

A public right-of-way providing primary access to abutting properties.

RUNOFF

The portion of precipitation on the land which reaches a drainage system.

RUNWAY.

A level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.

SETBACK LINES

The interior limits of the minimum required yard areas of a lot.

SHORE YARD

A yard extending across the full width or depth of a lot the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the high water elevation of a pond, stream, lake, or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line.

SHORELANDS

Those lands lying within the following distances: One thousand (1,000) feet from the high-water elevation of navigable lakes, ponds, and flowages and three hundred (300) feet from the high-water elevation of navigable streams, or the landward side of the floodplain, whichever is greater.

SHORELINES

The intersection of the land surfaces abutting lakes, ponds, streams, flowages, and wetlands with the average annual high-water elevation.

SIDE YARD

A yard extending from the street yard setback line to the rear yard setback line 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 structure.

SIGNS

Any words, letter, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, professions, business, commodity or product and which is visible from any public street or highway but not including:

- (a) usual board notices in or about church property or any educational or public institution;
- (b) legal notices required to be posted by municipal, state or federal law; or
- (c) highway or traffic signs authorized to be erected by municipal, state or federal law.

SITE BUILT HOME

A permanent structure substantially constructed on-site meeting minimum provisions for dwellings and built on a permanent foundation with connections to utilities (plumbing, heating, gas, electrical) and constructed in accordance with Wisconsin Uniform Dwelling Code standards. Also known as a "conventional home" or "stick built home."

SMOKE UNIT

The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

STABLE

A building in which domestic animals are sheltered and fed, including animals not owned by the farm owner, or parents or children of the farm owner, up to a maximum of 50% of the animals therein.

STABLE, COMMERCIAL.

A building in which the majority of domestic animals located, sheltered, or fed therein, are not part of the farm operation.

STORAGE CAPACITY

The volume of space available above a given cross section of a floodplain for the temporary storage of flood water. The storage capacity will vary with stage.

STREET

A public right-of-way providing primary access to abutting properties.

STREET (Private)

The term private street includes the right-of-way of any private road, highway, lane, street, access easement, etc., where the defined street or easement area provides access to more than one parcel or principal structure.

STREET YARD

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.

STRUCTURE

Any erection or construction, such as buildings, towers, masts, booms, signs, decorations, carports, machinery and equipment, and opaque fences.

Structure, Accessory - A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot, or to a principal building, and located on the same lot as the principal use.

Structure, Principal - The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

STRUCTURAL ALTERATIONS

Any change which would increase or decrease the floor area or height of a building.

SUBSTANDARD LOT

Any lot, with or without structures, having lesser dimensions and/or area than required by the districts of this ordinance.

SURFACE WATER RUNOFF

Water that results from precipitation which is not absorbed by the soil or plant material.

SUMP PUMP DISCHARGE

Any clear water discharge from a building or other structure.

TEMPORARY SIGN

Any sign which pertains to auctions, bazaars, festivals, or other similar events or to any aspect of a political campaign.

TEMPORARY STRUCTURE

A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

TREE

Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.

UNNECESSARY HARDSHIP

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.

UTILITIES

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, gas regulation stations and sewage disposal plants, but not including municipal incinerators, warehouses, shops and storage yards.

VARIANCE

An authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Ordinance.

VEGETATIVE BUFFER OR VEGETATIVE BUFFER ZONE

An area of undisturbed or restored native vegetation that provides natural shoreline features and functions for fish and wildlife habitat, water quality protection, and natural scenic beauty.

WETLANDS

Those lands which are level or nearly level and, based upon SWCD soil mapping data, are poorly drained. Such lands are flooded frequently and/or covered with water throughout most of the year. Such lands may be marked by old drainage channels and often may contain small bodies of water in places. The native vegetation was mainly sedges, rushes, reeds and other water tolerant plants. Both mineral and organic material are in these lands. These lands occur within the following soil series: Houghton, Willette, Palms, Edwards, Adrian, Udorthents, and Fluvaquents.

WETLAND DISTRICT

The zoning district created as a part of this Zoning Ordinance, comprised of wetlands on the official zoning maps which have been adopted and made a part of this Ordinance.

YARD

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

ZONING ADMINISTRATOR

A person designated by the Town Board to administer and enforce this Ordinance. Reference to the Zoning Administrator shall be construed to include duly appointed assistants responsible for enforcing and administering all requirements of this Zoning Ordinance.

ZONING PERMIT

An official finding that a proposed use of a property, as indicated by an application, complies with the requirements of the zoning ordinance or meets special conditions of a variance or conditional use permit; the ordinance will specify the building activities that need to have such a permit.

- * However, in no case shall mobile homes be considered as single-family or two-family dwellings under these definitions.
- ** See definition of “Dwelling -- Single Family” and “Dwelling -- Two-Family”.

Title 16 – Chapter 2

GENERAL PROVISIONS

16-2-1 JURISDICTION.

The provisions of this Ordinance shall apply to all structures, land, water and air within the Town of Oshkosh, Winnebago County, Wisconsin.

16-2-2 COMPLIANCE.

Unless otherwise provided by this Ordinance or applicable State or Federal Law, after the effective date of this Ordinance no structure, land or water shall be developed, and no structure or part thereof shall be located, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a Zoning Permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations; provided, however, that this Ordinance shall not govern normal farming operations on farmland, or normal filling, grading or landscaping of land which is incidental to land use and development otherwise permitted under this ordinance.

The Town Board, or any owner of property within the Town who are affected by a particular regulation, variance or conditional use under this Ordinance may sue to enforce compliance with this Ordinance through injunctive relief in addition to any other remedy which may be available.

(1) Building Inspector; Duties.

- (a) A Building Inspector shall be appointed by the Town Board at a rate of compensation and for a term of office which is established by the Town Board at the time of such appointment. When practicable, the Building Inspector shall be a resident of the Town; provided, however, that the Building Inspector shall possess such certification of skill or experience as may be required from time to time by the State of Wisconsin.
- (b) The Building Inspector shall examine all plans and/or blueprints of all structures to be located, erected, moved, reconstructed, enlarged, extended, converted or structurally altered, in order to insure compliance with the Building Code of the Town and other applicable town, county and state regulations.
- (c) The Building Inspector shall accept applications for permits and issue all permits.

(2) Zoning Administrator; Duties.

- (a) A Zoning Administrator shall be appointed by the Town Board at a rate of compensation and for a term of office which is established by the Town Board at the time of such appointment. When practicable, the Zoning Administrator shall be a resident of the Town.
 - (b) The Zoning Administrator shall accept applications, issue or deny Zoning Permits, give notice of violations and enforce the provisions of this Zoning Ordinance.
 - (c) The Zoning Administrator and Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by them, or either of them, to ensure compliance with this Ordinance, applicable building codes and town, county and state regulations. They each shall have the authority to procure special inspection warrants in accordance with Wisconsin Statutes.
 - (d) The Zoning Administrator and Building Inspector each shall have the authority to halt any location, erection, moving, reconstruction, enlargement, extension, conversion or structural alteration of a structure, or use of land, which is not in compliance with this Ordinance or applicable building codes and town, county and state regulations. In furtherance of this authority, the Building Inspector may revoke any building permits then issued which pertain to any non-conforming matter by notice in writing to the holder of such permit.
 - (e) Building permits issued for any matter shall be posted in a prominent place on the premises for which the permit has been issued prior to and during the terms of the permit.
 - (f) Notwithstanding any other provision of this Ordinance, where a Zoning Permit has been issued in accordance with law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months after such effective date and diligently pursued to completion, the subject of such permit may be completed in accordance with the approved plans on the basis on which the permit was issued. Upon completion such premises may be occupied under a Certificate of Compliance for the use designated in the permit. Thereafter, however, the premises shall be subject to all provisions of this Ordinance.
- (3) Planning and Zoning Committee
- (a) The Town of Oshkosh Planning and Zoning Committee shall be appointed by the Town Chairman and confirmed by the Town Board. The Committee shall consist of seven (7) members, who shall reside in the Town. Vacancies shall be filled by appointment by the Town Chairman with confirmation by the Town Board for the un-expired term of the member whose position has become vacant. Committee members shall be removable by the Town Chairman for cause upon written charge and after a public hearing conducted by the Town Board.

- (b) A Chairperson shall be appointed by the Town Chairman with confirmation by the Town Board.
 - (c) The Town Board shall appoint a secretary, who shall receive compensation according to the Town's Salary rate.
 - (d) Terms of service shall be for three (3) years and shall be staggered.
 - (e) The Committee shall conduct all public hearings for Zoning applications, Conditional Use Permits, and Land Use planning.
 - (f) The Committee shall make recommendations to the Town Board for action on the above applications and public hearings.
 - (g) The Committee shall review and make recommendations on the Zoning and Land Use/Subdivision Ordinances and the Land Use Plan.
 - (h) The Committee shall review matters as directed per this Ordinance.
 - (i) The Committee shall receive compensation at a rate set by the Town Board.
- (4) Board. Refer to Title 13 of the Code of Ordinance.

16-2-3 ZONING PERMIT.

- (1) Applications for a Zoning Permit shall be made in writing to the Zoning Administrator on forms which he or she shall provide, and shall include the following information, if applicable about the subject site:
- (a) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (b) Description of the subject site by its legal description according to the Winnebago County, Wisconsin, Registry or land survey in accordance with Town of Oshkosh, Wisconsin, Subdivision Ordinance;
 - (c) Address of the subject site;
 - (d) Zoning district in which the subject site is located;
 - (e) Zoning district for which the applicant is applying for the subject site;
 - (f) Type of structure to be constructed on the subject site, if known;

- (g) Existing and proposed use and operation of the subject site and if known, the structure;
 - (h) Number of proposed or anticipated employees and/or occupants of the subject site and structure;
 - (i) Plot plan showing the location, property boundaries, and dimensions, uses and sizes of the following: subject site; existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; and finished grades.
 - 1. The proposed finished grade for a principal structure at its center or other highest grade elevation on any such plot plan, shall be a grade which is not less than twelve (12) inches above the crown of any adjacent improved public or platted road
 - 2. Where an alternate finished grade elevation would better suit the existing or proposed uses surrounding the subject site, or would better facilitate orderly surface water drainage on and off the subject site, the Building Inspector shall have the authority to set an alternative finished grade elevation at the time of application for a building permit; provided, however, that such alternative grade shall be noted on the zoning application and permit by the Building Inspector at the date of issue of the permit.
- (2) A Zoning Permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days after receipt of a complete application. Where public sewer is unavailable, no permit shall be issued without the prior approval of sanitary plans and if applicable issuance of a Sanitary Permit by the Winnebago County, Wisconsin, Sanitary Inspector. Where public sewer is available no permit shall be issued without the prior approval of sanitary plans and, if applicable, issuance of a sanitary permit by the Town of Oshkosh Sanitary District #1 , Edgewood Shangri-La, Sunset Point, Butte des Morts or Island View Sanitary Districts.
- (a) Except for barns, silos and similar farm buildings, no zoning permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided either by the Town of Oshkosh Sanitary District #1 or otherwise in accordance with the Winnebago County, Wisconsin Sanitary Ordinance and Chapter H 62.20 of the Wisconsin Administrative Code as amended from time to time.
 - (b) A Zoning Permit is issued in anticipation of proposed construction. It shall lapse and become void six months after date of issue unless substantial work on said construction has been commenced and diligently pursued within that period.

16-2-4 BUILDING PERMITS.

A Building Permit shall be required as per the Town of Oshkosh.

- (1) Applications for a Building Permit shall be made in writing to the Building Inspector on forms which he or she shall provide and which shall include the following:
 - (a) Names and addresses of the applicant, owner of the site, and architect, professional engineer and contractor, if any;
 - (b) Description of the subject site by its street address or, if there is none, by its legal description according to the Winnebago County, Wisconsin Registry or other land survey;
 - (c) Type of structure or work proposed to be done and statement of cost of work proposed to be done or, where not known, good faith estimate of such cost.
- (2) A Building Permit shall be granted or denied in writing by the Building Inspector within thirty (30) days after receipt of a complete application. Where public sewer is unavailable, no permit or new construction intended to be occupied by human beings shall be issued without the prior approval of sanitary plans and issuance of a Sanitary Permit by the Winnebago County, Wisconsin, Sanitary Inspector or the Town of Oshkosh Sanitary District #1, Edgewood Shangri-La, Sunset Point-Butte des Morts, and Island View Sanitary Districts.
- (3) Except for barns, silos and similar farm buildings, no permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided in accordance with the Town of Oshkosh Sanitary District #1 or Winnebago County, Wisconsin, Sanitary Ordinance and Chapter H. 62.20 of the Wisconsin Administrative Code as amended from time to time.
- (4) Building Permits shall recite the information set forth in the application and shall be displayed at the subject site and shall lapse and become void six months after date of issue unless substantial work has been commenced and diligently pursued within that period.
- (5) All building permits shall expire 24 months from date of issue. Any work not completed at the end of this time shall require a new permit.

16-2-5 CERTIFIED SURVEY MAPS (CSM).

- (1) Submittal. Combining parcels or creation of a Minor Land Division shall be by certified survey map. The certified survey map shall be submitted to the Town of Oshkosh Zoning Administrator (or designee). The certified survey map shall be

prepared according to 236.34, Wisconsin Statutes, and shall show clearly on its face the following:

- (a) Whole Parent Parcel(s) must be shown on CSM when combining or dividing parcel(s).
 - 1. All existing buildings.
 - 2. Setbacks
 - 3. Water Courses
 - 4. Drainage ditches
 - 5. Setbacks to structures to adjacent property and other features pertinent to division of property should be shown.
 - 6. D.O.T. approval when parcel is abutting a State of Wisconsin Highway or Federal Highway.
 - 7. Acreage to right-of-way spelled out.
 - 8. Location of access to road.
 - 9. Prior CSM Number (if applies) put at top.

 - (b) Tax Parcel Number
 - 1. Put in a box
 - 2. On proper parcel or pointing to proper parcel

 - (c) Existing parcel boundaries that fall within new parcel(s) shall be identified with dashes (---) or periods (...)

 - (d) Date of map with a graphic scale

 - (e) Other pages:
 - 1. Surveyor's Certificate, recorded survey description, surveyor signature and date.
 - 2. Owner(s) Certificate of Approval, signature(s) and date with Notary Public's signature, date and commission expiration date.
 - 3. Town of Oshkosh Treasurer's Certificate of Approval, signature and date verifying that there are no unpaid taxes or special assessments in accordance with Wisconsin Statutes 236.21(3).
 - 4. Town of Oshkosh Board Certificate of Approval, Town Chairman's signature and date after board approval.
- (2) Certified Survey Map (after approval of all required authorities) shall be recorded in the Winnebago County Register of Deeds Office.

16-2-6 CERTIFICATE OF COMPLIANCE.

- (1) Where a Zoning Permit is required under this Ordinance, no development or structure shall be used or occupied until a Certificate of Compliance has been issued by the

Zoning Administrator. Such Certificate shall state that the development or structure is in compliance with the applicable standards of this Ordinance. An application for a Zoning Permit is deemed an application for a Certificate of Compliance.

- (2) A Certificate of Compliance also shall be required before the use of, or change in use of any non-conforming use. However, upon written request of the owner, the Zoning Administrator shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance, which Certificate shall state the extent and kind of use made of the building or premises and the manner in which it may not conform to the provisions of this Ordinance. Residential lots which are plotted or otherwise identified by certified survey map or similar legal description on the effective date of this amended ordinance, and which comprise less than one (1) acre in sewered areas and two (2) acres in un-sewered areas are not non-conforming lots or uses.

16-2-7 SITE RESTRICTIONS.

- (1) The following requirements shall apply to all land use sites:
- (a) All lots shall abut upon a public street, and each lot shall have a minimum frontage of thirty-three (33) feet. All lots shall also have a minimum width at the minimum required street yard setback as prescribed for the particular zoning district in which the lot is located.
 - (b) All principal residential structures shall be located on a lot; and only one principal residential structure shall be located, erected, or moved onto a lot.
 - (c) No construction of accessory structures or accessory uses shall be permitted prior to construction of the primary residential, commercial, or business structure.
 - (d) No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.
 - (e) Lots abutting more restrictive district boundaries than those of the district in which it is located, shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards on the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary lines so as to equal the average of the street yards required in both districts.
 - (f) All street setbacks shall be measured from the affected road right-of-way line, road easement or from any road widths shown on a duly adopted street width map.
- (2) No land shall be used or structure erected where the land is determined to be unsuitable for such use or structure by the Town Board and the Town of Oshkosh

Planning and Zoning Committee, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, aesthetics, and general welfare of the Town.

- (3) The Town Board, Building Inspector, Zoning Administrator and the Town of Oshkosh Planning and Zoning Committee, in applying the provisions of this section, shall itemize in writing the particular facts upon which is based a conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/or she so desires. Thereafter the Town Board, Building Inspector, Zoning Administrator and the Town of Oshkosh Planning and Zoning Committee may affirm, modify, or withdraw its determination of suitability.

16-2-8 SURFACE WATER DRAINAGE.

- (1) Controlled storage and release of surface water runoff shall be required for all commercial and industrial developments and for residential developments in order to eliminate the accumulation or transportation of excess surface water runoff on or through other land or habitable structures.
- (2) It is not the intent of this section to take land areas out of use for the sole purpose of storing excess surface water, nor to restrict land use or to increase development costs. The use of natural topographic paths of surface water runoff to form planned channels and the restriction of such channels to form storage areas is encouraged. Since political and ownership boundaries often make the use of natural topographic drainage patterns impractical, earth-moving that is done to develop land usage should also be planned to provide a bypass channel for surface water runoff that will not create a diversion of drainage or radically change applicable watershed boundaries.

(a) Surface Water Drainage Design Considerations - General.

1. Where required by Chapter 2.8, a complete surface water management system shall be provided in all areas within the development site for handling surface water runoff that flows into or across the site from the outside, or emanates from the site without undesired additional flooding of any other lands in the drainage basin. Soil types shall be coefficients within the basins involved.
2. Surface water drainage design shall consist of a drainage plan and report that demonstrates that peak post development flow rates shall be no greater than predevelopment flow rates for the 2, 25, and 100 year storms as determined by United States Department of Agriculture Technical Release 55 (TR-55),

Urban Hydrology for Small Watersheds. The plan and report will follow Chapter 20.58 of the Town of Oshkosh Subdivision Ordinance.

- (b) Single Lot Residential Development. One (1) copy of a drainage plan shall accompany all zoning permit applications and shall be submitted to the Town of Oshkosh.
- (c) Surface Water Design Considerations - Subdivisions & Planned Residential Areas. Subdivision plans and R-5 "Planned Residential District" shall not be approved unless all lands intended for use as building sites can be assured drainage within the site plan as approved by the Town. Unless other arrangements are made with the Town, the developer shall construct, install and furnish all necessary drainage structures including pipes, catch basins, ditches, and retention areas etc. construction shall conform to all Town specifications.
- (d) The drainage system for such site plan shall be integrated with generally existing drainage facilities covered by Town easement and/or established drainage which serves the area within the development, and said drainage shall not cause damage to any property rights of others. Discharge onto adjacent properties where there is no existing drainage outlet or where no natural drains exist will not be permitted without the developer acquiring the necessary easements, as determined by the town.
- (e) Lots subject to Chapter 2.8 shall be developed to maximize the amount of surface water drainage which is percolated into the soil on site and to minimize direct overland runoff into adjoining property, streets, and water courses. Water runoff from roofs and other impervious surfaces shall be diverted into swales, or terraces on the lot. Where a positive outfall is unavailable or inadequate, and the installation or revision of the outfall is not economically practicable, a retention-seepage basin may be included in the drainage system. The basin shall be designed using accepted engineering practices. In all cases the basin shall be designed and located in such a manner as to cause the least amount of damage to the property of others when the design is exceeded. Sufficient drainage right-of-way shall be set aside to allow for egress, ingress, and continuous maintenance around the perimeter of the basin.
- (f) Sump Pump Discharge.
 - 1. Definition: "Sump pump discharge" means any clear water discharge from a building or other structure.
 - 2. Regulations:
 - a. In areas where storm sewer is not available, the sump pump shall discharge at least two (2) feet from the foundation of any building. Discharge from the sump pump shall be directed to the rear lot line, to the

street, or to a drainage or road ditch. It shall not be closer than ten (10) feet to the property of adjacent owners. The place of discharge is the point where the water is discharged upon the ground from hoses, pipes, or other connections to the sump pump.

- b. No discharge from any sump pump is permitted to create a nuisance.
 - i. The sump pump discharge shall be considered a nuisance in situations including, but not limited to, such discharge creating icing problems on a town street or sidewalk, damaging a street or sidewalk, creating ponds of standing water, and allowing discharged water to flow onto adjoining property.
 - ii. If the sump pump creates or constitutes a nuisance, the Town shall require the owner of the property discharging the water to correct the problem so the water from the sump pump is discharged in such manner as not to interfere with the use of the adjacent properties by the adjacent property owners.
- (g) The Town of Oshkosh Zoning Administrator shall review each drainage plan and comments received and render a decision either of approval, denial, or approval with condition(s). A decision shall be made within thirty (30) days from receipt of the drainage plan.

16-2-9 USE RESTRICTIONS.

The following use restrictions and regulations shall apply, and unless otherwise specified, the basic standards of a district shall be minimum standards:

- (1) Principal Uses. Only those principal uses specified for a district, their on-site services and the following accessory uses and conditional uses shall be permitted in that district, except gardening shall be a principal use in all districts.
- (2) Accessory Uses. Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal use and structure are present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; servant's, owner's itinerant agricultural laborer's, and watchman's quarters not for rent; private swimming pools; and private emergency shelters.
- (3) Conditional Uses. Conditional uses and their accessory uses are considered as special uses which require a public hearing and approval all in accordance with Section 4.0 of this Ordinance. In addition to those stated elsewhere in this Ordinance, the following shall be conditional uses in all zoning districts of this Ordinance:

- (a) Utilities - and associated structures - provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
 - (b) Governmental and cultural uses, except the town hall, town offices and town fire stations shall be considered principal uses - except in the A-1 Agri-Business District they shall require conditional use approval.
- (4) Unclassified or Unspecified Uses. The Board of Appeals has the authority to hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Planning and Zoning Committee has made a review and recommendation.
- (5) Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Town of Oshkosh Planning and Zoning Committee. Other temporary uses, e.g. mobile homes, emergency housing needed due to natural disaster, etc., shall be reviewed annually for continued use according to Chapter 13.7 (6) of this Ordinance.
- (6) Animal Restriction. Unless otherwise specified, no premises in a Residential District shall be used to harbor more than three dogs. Puppies whelped on any such premises as a result of fortuitous mating may be retained on the premises until they are six months old and shall not be taken account of in determining the number not in excess of three (3) dogs here-in-above permitted on such premises. No premises in a Residential District shall be used for breeding or rearing of dogs for sale or hire or for the boarding of dogs for pay. The raising or keeping of exotic reptiles shall be prohibited.
- (7) Dog Day Care/Kennel Licensing. No dog day care/kennel shall be located:
- (a) In any zone except A-2
 - (b) Within 880 yards of any residential dwelling unit, other than the residence of the owner of such dog day care/kennel, unless all residents within the 880 yard setback consent in writing to a lesser setback.

16-2-10 SANITARY REGULATIONS.

The provisions of the Town of Oshkosh Sanitary District Ordinances.

16-2-11 REDUCTION OR JOINT USE.

After the effective date of this ordinance no lot, yard, parking area, building area, or other space shall be reduced in area or dimension below the

requirements of this Ordinance. No part of any lot, yard, parking area, or other space required for a particular structure or use shall be used for any other structure or use.

16-2-12 VIOLATIONS.

- (1) It shall be unlawful to construct or use any structure, land or water in violation if any of the provisions of this Ordinance.
- (2) In case of any violation, the Town Board, the Zoning Administrator, the Town of Oshkosh Planning and Zoning Committee, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance.
- (3) Every structure, fill or development placed or maintained in floodplains in violation of this Ordinance is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the Town or any citizen who lives in or within five hundred (500) feet of the floodland.

16-2-13 PENALTIES:

- (1) General Penalty. Any person who shall violate any of the provisions of the Ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows. Payment of forfeiture as listed does not relieve the person, firm, or corporation from the obligation to obtain all required permits, or comply with lawful enforcement orders.
 - (a) First Offense – Penalty. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than Fifty (\$50.00) nor more than Three Hundred Dollars (\$300.00), together with the cost of prosecution including reasonable attorneys' fees and, in default of payment of such forfeiture and cost of prosecution including reasonable attorneys' fees shall be added to the property tax, with an interest rate, with interest, at the current interest rate charged for delinquent property taxes.
 - (b) Second Offense – Penalty. Any person found guilty of violating any or part of this Ordinance who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than Three Hundred Dollars (\$300.00) nor more than One Thousand (\$1,000.00) for each such offense, together with the cost of prosecution including reasonable attorneys' fees and, in default of payment of such forfeiture and cost of prosecution including reasonable attorneys' fees, shall be

added to the property tax, with interest, at the current interest rate charged for delinquent property taxes.

- (2) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (3) Other Remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution, including reasonable attorneys' fees above.
- (4) Fees
 - (a) Fees for permits and hearing items shall be as established from time to time by the Town of Oshkosh Board of Supervisors. Upon adoption by the Town Board, the current fee shall be noted in the appropriate section of the ordinance and shall also be maintained on a current fee schedule in the Zoning Office.
 - (b) Fees for all after the fact permit and hearing applications shall be doubled.

Title 16 – Chapter 3

ZONING DISTRICTS

16-3-1 RESIDENTIAL DISTRICTS INTERPRETATION

- (1) The residential zoning standards of this Ordinance are divided into those for home-sites with public sewer and those for home-sites dependent upon on-site private sewage disposal systems.
- (2) Home-sites developed on a scattered basis, disassociated from any recorded subdivision or approved planned unit development shall conform to the lot size and associated standards of the appropriate residential district designated "non-subdivided".
- (3) The smaller lot size and associated standards which accompany residential districts designated as "subdivided" shall be utilized in determining optimum land use in the process of establishing a duly recorded subdivision. "Subdivided" lot sizes and standards shall not be applied to any unplatted lands or assessor's plats, and when applied to existing plats shall not allow a change in recorded lot size without a certified survey map and replat of the affected subdivision, approved by the Town of Oshkosh Town Board prior to approval of the County.

16-3-2 RESIDENTIAL CONDITIONAL USES.

Residential conditional uses and their accessory uses are considered as special uses which require review, public hearing, and all in accordance with Chapter 4.0 of this Ordinance.

In addition to those stated under Chapter 2.9, the following shall be conditional uses in all residential districts of this Ordinance.

- (1) Public, private and parochial elementary and secondary schools and all churches.
- (2) Clubs, fraternities, lodges, and meeting places of a non-commercial nature.
- (3) Home occupations and professional offices which require on site customer access.
- (4) Model homes and accessory sign according to Chapter 2.9.
- (5) Bed and Breakfasts.
- (6) Community living arrangements greater than 8 (eight) persons as defined in Sec. 59.97(15), Wisconsin Statutes.

16-3-3 RESIDENTIAL ACCESSORY USES.

In addition to those accessory uses specified under Chapter 2.9, or under a special district, the following accessory standards shall apply in all residential districts:

(1) Fences.

(a) Fences will be permitted on or within the property line. On or within the side and rear yard the height shall not exceed six (6) feet. In the street yard, the fence shall be an open type (50% or less opaque) and shall not exceed four (4) feet in height; and shall be no closer than two (2) feet to a road R.O.W. In those cases where the rear yard is a shore yard, fences located between the shore yard setback line and half the distance to the high water mark shall adhere to the rear yard standard, and shall comply with the street yard standards.

(b) Fences on the property line of a through lot abutting an access restricted right-of-way shall be allowed at the rear yard height and opacity standards.

(2) Outdoor Lighting. Outdoor lighting installations shall be permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(3) Parking. According to Chapter 5.0.

(4) Signs. According to Chapter 7.0.

(5) Accessory Buildings. Accessory buildings including garages (attached and detached), storage structures, pole buildings and other similar structures in all residential districts or on a lot where the principal use is residential, shall conform to the following:

(a) No detached accessory structure or garage shall exceed a height of eighteen (18) feet, measured from floor to apex.

(b) Allowed floor area:

1. Total floor area for accessory structures in R-1 Residential District with a lot size of less than one acre (43,000 sq.ft.) shall not exceed 1500 sq. ft.
2. Total floor area for accessory structures in a R-1 Residential District or A-2 Agriculture District with R-1 use with a lot size of one acre (43,000 sq. ft.) or larger shall not exceed 1500 sq. ft. plus 3% of the lot area in excess of the 43,000 sq. ft.

3. Total floor area for accessory structures in an R-2 Residential subdivided or MH-1 Mobile Home District shall not exceed 1200 sq. ft., except where the lot size exceeds 10,000 sq. ft., the total accessory square footage may increase by 1% of the lot area in excess of the 10,000 sq. ft.
 4. Total floor area for an accessory structure with an R-3 Two Family Residential use shall not exceed 900 sq. ft. for a single accessory structure nor shall any combined total exceed 1200 sq. ft
 5. Total floor area for R-4 Multi Family District and R-5 Planned Residential District shall not exceed:
 - a. Three units, 1200 (twelve hundred) sq. ft.
 - b. Each additional unit, 265 (two hundred and sixty-five) sq. ft.
 - c. Increased floor area may be granted by conditional use permit.
 6. No more than three (3) detached accessory structures shall be permitted on a lot.
 7. Accessory structure setbacks shall comply as follows in all above districts.
 - a. Three (3) feet from side lot line
 - b. Three (3) feet from rear lot line
 - c. Ten (10) feet minimum from principal structure and abutting structures
 - d. Thirty (30) feet street yard *
 - e. Seventy-five (75) feet shore yard
- (6) Boathouses. Boathouses shall be located within a shore yard but shall be no closer than five (5) feet to the average annual high-water elevation of the stream, lake, pond or wetland. In no case, however, shall boathouses be located below a high-water elevation, nor shall boathouses be used for human habitation. Furthermore, boathouses shall not exceed one (1) boathouse for each shoreland lot; shall not exceed a height of fifteen (15) feet (to peak) above the natural grade; shall not exceed five hundred (500) square feet in horizontal area covered and shall not be closer than three (3) feet to any side lot line. Boathouses shall not reduce the floor area or number of accessory structures allowed per lot.

16-3-4 R-1 RURAL RESIDENTIAL DISTRICT (NON-SUBDIVIDED).

- (1) Statement of Intent. The intent of this district is to provide a lot size and associated standards for home-sites developed on a scattered basis. The criteria of this district are designed to provide reliable, single-family home-sites in those areas where

"neighborhood" and "community" facilities and services are of secondary significance to the location of the home-site itself.

(2) Principal Use.

(a) One-family dwellings and Community Living Arrangements defined in 59.97(15), Wisconsin Statutes.

(b) Incidental agricultural activities when the site is used as a farm home-site.

(c) Dwellings shall measure a minimum of 20 ft. across from exterior edges of walls and are a minimum of 900 sq. ft.

(3) Basic District Standards. The basic lot standards in this district after the effective date of this ordinance shall be as follows:

Lot (un-sewered)	Area	Minimum	43,000 sq. ft.
Lot (sewered)	Area	Minimum	12,000 sq. ft.
Building	Height	Maximum	35 Ft.
Yards	Street	Minimum	30 Ft. *
	Rear	Minimum	25 Ft.
	Side	Minimum	7 Ft. and 10 Ft. sides *
	Shore	Minimum	75 Ft.

(4) Conditional Uses. (According to Chapter 4.0) Permitted conditional uses in this district shall be as follows:

(a) All uses specified under Chapter 2.9.

(b) All uses specified under Chapter 3.2.

(c) The following uses provided that they shall be of a non-commercial nature and exceed the standards set in Chapter 3.4 (5):

1. Raising and keeping of stable animals and all other domestic livestock. Shall require a minimum parcel of 5 (five) acres.
2. Raising and keeping of dogs in excess of animal restriction under Chapter 2.9 (6) not to include breeding or boarding.
3. Raising and keeping of domestic fowl including gallinaceous birds.

4. Smaller "hobby"-type animals not to include those animals of such size or character as to normally be considered to be big game, e.g. lions, tigers, bears, etc. and not to include fur bearing animals, e.g. mink, chinchilla, etc., except rabbits.
5. Domestic Rabbits or Hares exceeding a total of 6 (six).

Furthermore,

- (d) Where the application is for raising and keeping of stable animals, or domestic livestock on a minimum of 5 acres, the applicant must reserve sufficient area for the relocation of the residential structure's drainfield. Such reserved area must be verified as suitable by a Certified Soil Tester, or by detailed soil maps. Furthermore, the reserved area must be safe-guarded from heavy traffic and shall be located so as to comply with the setback standards of ILHR 83 of the Wisconsin Administrative Code and the Winnebago County Sanitary Ordinance - both for existing and future structures.
 - (e) The number of animals to be kept shall be established in the conditional use approval. (See standard of animal/equivalency/acre Chapter 3.4 (5).
 - (f) The conditional use shall address disposal and/ or removal of animal waste and run off.
- (5) Non-Farming Animal Allowance. Permitted animal uses on 5 acres or greater shall include raising and keeping of domestic stable animal and other domestic livestock, the raising and keeping of domestic fowl, including gallinaceous birds, which shall be of a non-commercial nature.
- (a) One (1) acre shall be dedicated to residence/building use and shall be excluded from the formula.
 - (b) A formula of one animal unit/equivalence/acre shall be used to determine the total number of allowable animals/fowl.

<u>Description</u>	<u>One Animal unit/equivalence/acre</u>
Horse per animal	1
Cattle per animal	1
Llama per animal	1
Sheep, goat per animal	2
Chicken, Duck, Turkey	5

- (c) Animals or fowl not listed in this section shall fall under Chapter 3.4 (c) under conditional uses.

(6) Accessory Structures for Animal Uses.

(a) Permitted accessory structures in this district shall include stables, sheds and similar structures as accessory structures to conditional uses in Chapter 3.4 (4) or allowed use in Chapter 3.4 (5). Accessory structure standards for this district shall meet the standards for floor area set in Chapter 3.3(5) and shall meet the following:

<u>Yards</u>	Street	Minimum	100 Ft. or as specified in the Conditional Use Approval
	Side	Minimum	50 Ft.
	Rear		50 Ft.
<u>Building</u>	Height	Maximum	18 Ft.

(b) Confinement. The permanent confinement of animals; the placement of pens, and location of structures for same shall be a minimum of seventy five (75) Ft. from any adjoining residence. (Said adjoining residence shall have the right to expand, remodel or reconstruct without regard for this minimum distance.)

(7) Accessory Uses By Permit Only. Swimming pools (in-ground) shall be surrounded by suitable fencing. Fencing shall be a minimum of forty-eight (48) inches above finish grade level, construction material shall be of a chain link or wood or similar strength material. Fencing shall be constructed to prohibit passage of a six (6) inch sphere between fence members, and the bottom of said fence shall be no more than two (2) inches above the existing ground elevation. Any gates installed shall be constructed so as to be capable of being locked, shall be self-closing, and shall be closed and secured so as to prevent unlatching by persons outside the pool area when the pool is not in use. All electrical installations shall be in compliance with the National Electrical Code. All new and existing pools are required to comply with fencing standards.

16-3-5 R-2 SUBURBAN RESIDENTIAL DISTRICT (SUBDIVIDED).

(1) Statement of Intent. The intent of this District is to provide a lot size and associated standards for home-sites in a duly recorded and legally maintained subdivision. The criteria of this district have been designed to provide reliable single-family home-sites which offer a "suburban arrangement of amenities, services, facilities, etc.

(2) Principal Uses:

(a) Principal uses shall include one-family dwellings on lots which have been developed and recorded according to Chapter 236 of the Wisconsin Statutes, Town of Oshkosh Subdivision Ordinance, and Chapter ILHR83 or the Wisconsin Administrative Code for lots not served by public sanitary sewer.

(b) Dwellings shall measure a minimum of 20 ft. across from exterior edges of walls and a minimum of 900 sq. ft.

(3) Basic District Standards (Sewered and Un-sewered):

Lot (un-sewered)	Area	Minimum	20,000 sq. ft.
Lot (sewered)	Area	Minimum	9,000 sq. ft. 10,000 sq. ft. Shoreland
Building	Height	Maximum	35 ft.
Yards	Street	Minimum	30 Ft.
	Rear	Minimum	25 ft.
	Side	Minimum	10 and 7 ft
	Shore	Minimum	75 ft.

(4) Conditional Uses. (According to Chapter 4.0) Permitted conditional uses in this district shall be as follows:

(a) All uses specified under Chapter. 2.9.

(b) All uses specified under Chapter. 3.2.

16-3-6 R-3 TWO FAMILY RESIDENTIAL DISTRICT.

(1) Statement of Intent. The intent of this district is to provide a lot size and associated standards for a home-site which will accommodate the use of a "duplex" housing type. Since the two-family dwelling produces a divergent occupancy pattern from that of the traditional single-family dwelling, duplex zoning - when desired - should be applied on a district basis, adjacent to, but not within the character of the single-family neighborhood in which it is to be located.

(2) Principal Uses. Two-family and single-family dwellings and incidental agricultural activities when such a site is utilized as a farm home-site in an A-1, or A-2 district.

- (a) Two-family dwellings shall contain a minimum length/width of 20 feet, both units included and measured from the narrowest part of the structure, and a minimum area of 500 sq. ft. for each dwelling unit.
- (b) Dwelling shall measure a minimum of 20 ft. across from exterior edges of walls and a minimum of 1000 sq. ft.

(3) Basic District Standards:

Lot (un-sewered)	Area	Minimum	43,000 Sq. Ft.
Lot (sewered)	Area	Minimum	10,000 Sq. Ft.
Building	Height	Maximum	35 ft.
Yards	Street	Minimum	30 ft
	Rear	Minimum	25 ft.
	Side	Minimum	10 ft. and 7 ft.
	Shore	Minimum	75 ft.

(4) Conditional Uses. (According to Chapter 4.0) Permitted conditional uses in this district shall be as follows:

- (a) All uses specified under Chapter 2.9.
- (b) All uses specified under Chapter. 3.2.
- (c) Rest homes, nursing homes, homes for the aged, day care centers, children's nurseries and medical clinics.

16-3-7 R-4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT (SEWERED).

(1) Statement of Intent. The intent of this district is to provide residential development of "walk-up" type apartment buildings which provide rental housing to be built within the economies of scale, while retaining a relatively low density pattern. The use of this district should be applied to those locations in the "neighborhood" in which it will be compatible with surrounding uses; where the increased density would not create a service problem; and where the use will accommodate both the existing or anticipated character of the surrounding area and the needs of the future of the multiple-family development itself.

(2) Principal Uses.

- (a) Multiple-family dwellings, on lots served by public sanitary sewers.

(b) All dwelling units shall contain a minimum area of 500 Sq. Ft.

(3) Basic District Standards. The basic lot standards in this district shall be as follows:

Lot	Area	Minimum	15,000 Sq. Ft.
Building	Height	Maximum	35 ft.
Yards	Street	Minimum	40 ft.
	Rear	Minimum	40 ft.
	Side	Minimum	15 ft. each
	Shore	Minimum	75 ft

(4) Conditional Uses. (According to Section 4.0) Permitted conditional uses in this district shall be as follows:

(a) All uses specified under Chapter 2.9.

(b) All uses specified under Chapter 3.2.

(c) All conditional uses specified under R-3 Two Family Residential.

16-3-8 R-5 PLANNED RESIDENTIAL DISTRICT (SEWERED).

(1) Statement of Intent. The intent of this district is to produce a total residential development area with standards designed to encourage creativity in the arrangement and placement of residential dwellings. To this end, the district allows a diversity of dwelling types, open spaces, and uses conceived and planned as comprehensive and cohesive projects.

(2) Unified Control.

(a) All land included for development as a PRD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, a corporation or group of individual. Applicants requesting approval of a PRD shall present firm evidence of unified control of the entire area within the proposed PRD, together with evidence that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provision of these regulations.

(b) The applicant shall state agreement to:

1. Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be required.

2. Provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans.
3. Bind their successors in title to any commitments made in the approval process.

(3) Basic District Standards. The basic lot standards in this district shall be as follows:

Development	Area	Minimum	10 acres in one ownership (recommended)
	Width	Minimum	None
Open Space	Area	Minimum	20% of the development area
Lot	Area	Minimum	43,560 (1 acre) per dwelling unit
	Width	Minimum	120 ft. (all lot areas to be designated by broken lines on plot plan when condominium ownership)
Building	Height	Maximum	35 ft.
Yards	Street	Minimum	None
	Rear	Minimum	None
	Side	Minimum	15 ft. between single and two-family buildings
	Other	Minimum	30 ft. from public street rights-of-way; from exterior property lines of the development and according to Conditional Use Permit.
	Shore	Minimum	75 ft.

(5) Approval.

- (a) Application. In addition to the requirements of Chapter 4.0 there shall be a preliminary plan provided with each application. The data on this plan shall conform to the standards of Chapter 5.0 of the Town of Oshkosh Zoning Ordinance and all provisions of the Town of Oshkosh Subdivision Ordinance and shall also show:

1. The overall plan for development; including grading, landscaping, exterior design and location of buildings, lots, all common structures, facilities, utilities, access roads, streets, sidewalks, parking and open spaces;
 2. Total development area (square feet);
 3. Total proposed number of living units;
 4. Total proposed building area at ground level including garages, carports, and other community facilities;
 5. Total open space area (square feet);
 6. Total number of parking spaces;
 7. In the event the Town of Oshkosh Planning and Zoning Committee and the Town of Oshkosh Town Board approves the preliminary plan, or tentatively approves it with condition, the applicant shall submit a final plan for final approval within six (6) months. (After six (6) months the applicant must resubmit an original application in order to be eligible for further consideration.)
- (b) Permit. Issuance of a Conditional Use Permit shall be based upon the following evaluation of the final plan by the Planning and Zoning Committee with approval by the Town Board:
1. That the final plan conforms to the conditions for approval of the preliminary plan;
 2. That all Basic District Standards are satisfied;
 3. That the overall density of the project is in compliance with a comprehensive plan, or where no such plan has been duly adopted, is, in the Town of Oshkosh Planning and Zoning Committee's judgment, compatible with the surrounding area and/or within the capacity of the community's public services;
 4. That public sewer and adequate water is present;
 5. That landscaping and grading will be done to assure compliance with Chapter 2.6;
 6. That the streets to be provided will assure a traffic circulation pattern which minimizes through traffic, allows for adequate turning and parking and provides ample space for the turning and effective use of snow plows,

garbage and fire trucks, the loading and unloading of furniture, and other pickups and deliveries without blocking traffic;

7. That there will be a minimum number of conflicts between pedestrian and vehicular traffic;
8. That adequate lighting will be provided;
9. That the final plans include the planting of adequate trees and shrubs where not already present;
10. That the design of the development is in harmony with existing surroundings and will not be detrimental to the character of the neighborhood;
11. That adequate surety bonds and/or scheduling dates are provided to guarantee the improvements shown on the plans;
12. That deed restrictions are included, to assure the proper preservation, care, and maintenance, by the original and all subsequent owners of the exterior design and layout of the development and of all common structures, facilities, utilities, accesses, open spaces and park lands;
13. That the final plan shall be platted and duly recorded according to the standards and procedures of the Town of Oshkosh Subdivision Ordinance and Chapter 236 of the Wisconsin State Statutes.

(6) Conditional Uses. (According to Chapter 4.0 and Approval above).

- (a) Location, site, and operational plans for all structures and improvements which serve the principal use.
- (b) All principal, conditional, and Chapter 4.4 approval uses of the B-1 and B-2 Business Districts and any other business uses which will complement the density and setting of the residential development.
- (c) Elevator apartments in excess of thirty-five (35) feet in height when distance between subject building and other structures and/or from property lines is increased at a rate of two (2) feet for each additional five (5) feet of height of the building over the first thirty-five (35) feet of height.
- (d) All uses specified under Chapter 2.9.
- (e) All uses specified under Chapter 3.2.
- (f) All conditional uses specified under R-3 two Family Residential.

- (g) Patio, or zero side yard houses.
- (h) Single and two family residences with on-site sewage disposal systems; providing the overall density of the development does not exceed two (2) dwelling units/acre.
- (i) Private roads.

16-3-9 MH-1 MOBILE HOME DISTRICT (SUBDIVIDED, SEWERED).

- (1) Statement of intent. The intent of this district is to provide a lot size and associated standards for mobile homes in a duly recorded and legally maintained subdivision. The criteria of this district have been designed to provide reliable home-sites in those developing areas which have public sanitary sewer, and which offer a "suburban" arrangement of amenities, services, facilities, etc. It is the intent of the Town of Oshkosh not to create or provide a Mobile Home District.
- (2) Principal uses. Shall include mobile home dwellings on lots which have been developed and recorded according to Chapter 236 of the State of Wisconsin Statutes, the Town of Oshkosh Subdivision Ordinance.
- (3) Basic District Standards. The basic lot standards in this district shall be according to R-2 "Suburban Residential District".
- (4) Conditional Uses. (According to Chapter 4.0). Permitted Conditional uses in this district shall be as follows:
 - (a) All uses specified under Chapter 2.9.
 - (b) All uses specified under Chapter 3.2.
 - (c) Mobile home parks according to the procedures for application and Permit provided under the R-5 "Planned Residential District" providing:
 - 1. Each mobile home shall be located on a lot of not less than forty-three thousand five hundred and sixty (43,560) square feet (one acre).
 - 2. Each mobile home lot shall contain a parking space upon which the mobile home shall be situated which parking space shall be paved with concrete or bituminous material.
 - 3. There shall be a system of roadways with a minimum of thirty-six (36) feet widths, surfaced as required by item 2) above, providing access from each and every trailer and automobile parking space within such mobile home park

to the public street or highway; provided that there shall not be more than two (2) entrances from or exits to such street or highway from any one such park.

4. Each mobile home space shall be separated from all other mobile home spaces, automobile parking spaces, or service buildings or structures within such park by open spaces, permanently planted to grass, flowers, shrubs, or trees, which shall not be less than Fifteen (15) feet wide, except that there need not be more than a five (5) foot setback from an access driveway; provided, however, that such five (5) foot setback shall apply to the longest trailer to be accommodated within such park.
5. Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall not be less than fifteen (15) feet wide.
6. Each mobile home park shall have an office constructed as a safe storm shelter to accommodate the residents and staff of the mobile home park and shall maintain an office where a register shall be kept for the registration of all occupants, which register shall be open to town officials for inspection.

16-3-10 G-1 GARAGE LOT DISTRICT. (FLOATING)

- (1) Statement of Intent. The intent of this district is to allow the establishment of "Garage" lots in conjunction with residential lots in existence on the effective date of this ordinance which do not have sufficient area, width, or depth to allow construction of a garage.
- (2) Principal Uses. Shall include One (1) detached garage as a garage. This district will allow the establishment of such a garage lot in direct proximity to an existing residential lot. (According to Chapter 2.9).
- (3) Basic District Standards. The basic lot standards in this district shall be as follows:

Lot	Width		As required to align directly with an existing residential lot, but shall not be less than 40 ft.
	Area	Minimum	As required to meet yard minimum requirements
Structure	Height	Maximum	18 Ft.
	Floor Area	Maximum	1200 sq. ft.
Yards	Street	Minimum	30 ft.
	Rear	Minimum	3 ft.
	Side	Minimum	6 ft. total both sides
	Shore	Minimum	75 ft.

In addition, prior to the issuance of a zoning permit, the garage lot and existing related residential lot shall be deed restricted so as to require use and all transfers of ownership of the two lots as one (1) parcel.

- (4) Approval of Building Site And Operational Plans. (According to Chapter 4.4, and Boathouse, according to Chapter 3.3 (6)).

16-3-11 BUSINESS DISTRICTS INTERPRETATION.

The uses within each of these districts have been grouped according to the expected intensity of the commercial activity. Also, lot sizes have been adjusted according to service by public sewer or on-site sanitary system.

16-3-12 BUSINESS CONDITIONAL USES.

Business conditional uses and their accessory uses are considered as special uses which require review, public hearing, and approval - if there is approval - all in accordance with Chapter 4.0 of this Ordinance. In addition to those stated under Chapter 2.9, the following shall be conditional uses in all business districts of this Ordinance:

- (1) Residential apartments may be permitted as a conditional use provided that the quarters are an integral part of the design of the commercial activities not exceeding sixty (60) percent of the floor area of the structure.
- (2) Public passenger transportation terminals, such as heliports, bus and rail depots - except airports, airstrips, and landing fields - provided all principal structures and uses are not less than Three Hundred (300) feet from any residential district boundary.
- (3) Planned Business District with minimum of four (4) acres in one ownership and with a minimum frontage of 200 feet subject to the Approval procedures for Permit provided under the R-5 "Planned Residential District."

16-3-13 BUSINESS ACCESSORY USES.

In addition to those accessory uses and standards specified under Chapter 2.9 the following accessory standards shall apply in Business Districts:

- (1) Security fences are permitted on the property lines, but shall not exceed ten (10) feet in height and shall be an open type similar to woven wire or chain link fencing.
- (2) Outdoor lighting installations are permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties. Wisconsin State electrical codes shall be followed and height shall not exceed twenty five (25) feet.

- 17. Junior Department Stores except Discount Department Stores and Leather Goods & Luggage Stores
- 18. Medical Appliances
- 19. Office Supplies
- 20. Pet Shops for Indoor Sales Only
- 21. Photographic Supplies
- 22. Plumbing and Heating Supplies
- 23. Radio & TV Repair & Service Shops
- 24. Taxidermists
- 25. Trade and Variety Stores
- 26. Travel Bureaus

(3) Basic District Standards. The basic lot standards in this district shall be as follows:

Building	Height	Maximum	35 ft.
Yards	Street	Minimum	30 ft.
	Rear	Minimum	25 ft.
	Side	Minimum	7 ft on side: 10 Ft one side
	Shore	Minimum	75 ft.

(4) Conditional Uses. (According to Chapter 4.0) Permitted conditional uses in this district shall be as follows:

(a) All uses specified under Chapter 3.12.

- (b) Supermarkets
Places of Entertainment
Small Engine Repair
Laundry/Dry Cleaning Establishments employing not over four (4) persons
Liquor Stores
Music Stores with no outdoor speakers or amplification
Night Clubs
Personal Service Establishments

(5) Approval of Building, Site and Operational Plans. (According to Chapter 4.4)

(a) Commercial recreational facilities, e.g.:

- Arcades
- Bowling Alleys
- Clubs
- Dance Halls
- Driving Ranges
- Gymnasiums
- Lodges
- Miniature Golf

Physical Culture
Pool & Billiard Halls
Skating Rinks
Theaters
Turkish Baths

(b) Funeral Homes.

(c) Water-oriented commercial uses when on lakes and streams, e.g., bait shops, bath houses, bathing and fishing areas, boat and marine sales, boat launching areas, boat liveries, boat storage, repair and service marinas, sales, service and repair, dance halls, fishing equipment sales, hotels, resorts, restaurants, and campgrounds.

16-3-16 B-3 GENERAL BUSINESS DISTRICT.

(1) Statement of Intent. The primary intent of this district is to provide for the special development needs of those wholesale and retail stores, shops and services and those professional offices, which by their nature, are dependent upon a county-wide trade area and/or employee base. The secondary intent of this district is to provide for certain commercial activities which are uniquely oriented towards the service of highway traffic. Therefore, whether for use as a county-wide retail district, or for use by highway businesses, this district should be utilized to produce a safe and orderly placement of facilities and activities along and/or with access to major traffic routes. Additionally, when applied as a county-wide business district, its size and location should be in relationship to the needs and economy of the entire county.

(a) Recommended District Size:

1. 12-20 acres (unsewered).
2. 6-11 acres (sewered).

(2) Principal Uses. All principal uses permitted in the B-1 "Local Service District" and in the B-2 "Community Business District." Also the following uses and similar wholesale and retail stores, shops and services. Outside storage in conjunction with the principal use shall be allowed provided that the storage area is maintained in a neat and orderly manner, and where deemed appropriate at the time of permit application by virtue of proximity to a residential area or other potentially conflicting land use, required to fence or otherwise screen the storage area.

(a) Auction Galleries

(b) Automotive Part & Supply Stores.

(c) Auto, Truck & Heavy Equipment Sales, Service & Mechanical Repair.

- (d) Automotive Upholstery Shops.
- (e) Boat Sales, Rental & Repair.
- (f) Building Material & Product Sales.
- (g) Department Stores except Discount Department Stores & Discount Centers.
- (h) Exterminating Shops.
- (i) Feed & Seed Stores.
- (j) Food Lockers.
- (k) Monument Sales.
- (l) Motorcycle & Recreational Vehicle Sales, Repair & Service.
- (m) Newspaper Offices & Press Rooms.
- (n) Pawn Shops.
- (o) Physical Culture & Health Studios.
- (p) Printing, Advertising, & Publishing Shops.
- (q) Private Clubs, Lodges & Indoor Court Facilities.
- (r) Radio Broadcasting Studios.
- (s) Recording Studios.
- (t) Secondhand Shops.
- (u) Trade & Contractors Offices.
- (v) Vending Machine Sales, Service & Repair.
- (w) Wholesale Establishments, except Vehicle Wholesale & Auction.
- (x) Drive-in establishments serving food or beverages for consumption outside the structure.

(3) Basic District Standards.

- (a) Building.
Height--Maximum--35 ft.
- (b) Yards.
Street--Minimum--30 ft.
Rear--Minimum--25 ft.
Side--Minimum--7 ft. one side; 10 ft. other side
Shore--Minimum--75 ft.
- (c) Accessory Building requirements: see Chapter 3.3 (5).

(4) Conditional Uses. (According to Chapter 4.)

- (a) All uses specified under Chapter 3.
- (b) All conditional uses specified under the B-2. "Community Business District."
- (c) Vehicle Body Shops when accessory to sales, but not including the storage of junked or wrecked vehicles and parts.
- (d) Drive-in Theaters.
- (e) Commercial stables with a minimum of five (5) acres.
- (f) Model homes and garages.

- (g) Animal hospitals, kennels, and boarding with outdoor pens, providing all principal structures and uses--including pens--are at least eight hundred eighty (880) yards from any residence.

(5) Approval of Building Site and Operation Plans. (According to Chapter 4.)

- (a) All uses requiring Chapter 4 review under the B-2 "Community Business District."

- (b) Outdoor Display Areas when accessory to a principal use.

- (c) Landscape business.

- (d) All uses listed as Highway Business Uses

(6) Highway Business District (HB) -overlay:

- (a) Basic Overlay District Standards

- 1. Building Height: - Maximum – 35 ft.

- 2. Yards.

- a. Street – minimum – 75 ft.
- b. Rear – minimum – 25 ft.
- c. Side – minimum 20 ft. each side
- d. Shore – minimum – 75 ft.

- (b) Principal Uses.

- 1. Motels; mini-warehouses
- 2. Tourist's homes provided such district is located on a State Trunk or US Numbered highway
- 3. Highway-oriented recreation, e.g. driving ranges, miniature golf
- 4. Discount department stores and discount centers
- 5. Home building centers, including lumber yards
- 6. Outdoor sales, e.g. garden centers, nurseries, and greenhouses
- 7. Any B-3 Principal Use to be developed in an area mapped as B-3(HB)
- 8. Uses allowed within the Adult Entertainment District only following Conditional Use approval as required by that Section.

16-3-16-A ADULT-ORIENTED ESTABLISHMENT.

- (1) Legislative findings. The Town of Oshkosh Town Board makes the following legislative findings regarding adult-oriented establishments:
- (a) Adult-oriented establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a causal nature, which may have a deleterious effect on the existing and planned commercial and residential uses in the surrounding area and result in a downgrading of property values as well as causing an increase in criminal activity. The serving or presence of alcohol within an adult-oriented establishment is likely to heighten the potential occurrence of such deleterious effects on the surrounding area.
 - (b) The establishment of adult-oriented establishments within 600 feet of each other can create especially deleterious effects on existing and planned commercial and residential uses in the surrounding area.
 - (c) The establishment of an adult-oriented establishment within 600 feet of certain land uses, including schools, worship facilities, libraries, parks, and other places where the public and especially children congregate, can conflict with those uses.
 - (d) Concern over sexually transmitted diseases is a legitimate health concern of Town of Oshkosh, reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens.
 - (e) The Town of Oshkosh desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods, and deter the spread blight.
 - (f) It is not the intent of this section to suppress any speech activities protected by the First Amendment of the U.S. Constitution but to enact regulations that address the negative secondary effects of adult-oriented establishments.
 - (g) It is not the intent of the Town of Oshkosh to condone or legitimize the distribution of obscene material.
 - (h) It is in the best interests of the Town of Oshkosh to minimize and control any adverse secondary effects of adult-oriented establishments within the Town of Oshkosh while preserving the right of free speech and protecting First Amendment rights to all citizens and recognizing the rights of citizens to patronize and operate adult-oriented establishments.
 - (i) Although the consumption of alcohol beverages in an adult-oriented establishment would exacerbate the negative secondary effects of such business in the community, a local municipality may, however, be in a position to evaluate the extent of the secondary effects given the unique characteristics of the municipality and the extent to which those effects can be controlled or eliminated in their municipality.

(2) Definitions.

- (a) Adult arcade. An establishment where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer individuals per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- (b) Adult bath house. An establishment which provides the services of baths, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities.
- (c) Adult body painting studio. An establishment wherein patrons are afforded an opportunity to paint images on another person's body which is wholly or partially nude. An adult body painting studio shall not be deemed to include a tattoo parlor.
- (d) Adult book/video store. An establishment that as one of its principal business purposes offers for sale, lease, or rental any of the following (1) books, magazines, periodicals, or other printed matter that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; (2) photographs, paintings, or other visual renderings that are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas; (3) films, motion pictures, video cassettes, video reproductions, DVDs, CD-ROMs, or similar media that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; (4) games, whether electronic or non-electronic, that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (4) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment. This definition excludes films, motion pictures, video cassettes, streaming videos, DVDs, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.
- (e) Adult cabaret. An establishment, such as a nightclub, dance hall, bar, restaurant, or similar establishment, that regularly features (1) persons who appear semi-nude; (2) live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (3) film, motion pictures, video cassettes, streaming videos, DVDs, slides or other photographic reproductions, which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas. This definition excludes films,

motion pictures, video cassettes, slides, or other similar photographic reproductions given an “R” or “NC-17” rating by the Motion Picture Association of America.

- (f) Adult massage parlor. An establishment with or without sleeping accommodations that provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the state of Wisconsin and which establishment provides for its patrons the opportunity to engage in specified sexual activities.
 - (g) Adult modeling studio. An establishment that provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise.
 - (h) Adult motion picture theater. An establishment that, for any form of consideration, regularly shows films, motion pictures, video cassettes, streaming videos, DVDs, slides, or similar photographic reproductions, which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. This definition excludes films, motion pictures, videocassettes, streaming videos, DVDs, slides or other similar photographic given an “R” or “NC-17” rating by the Motion Picture Association of America.
 - (i) Specified anatomical areas. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast.
 - (j) Specified sexual activity. Any of the following (1) showing of human genitals in a state of sexual stimulation or arousal; (2) the fondling or erotic touching of human genitals, pubic region, anus, or female breasts; (3) the act of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, or cunnilingus; or (4) excretory functions as part of, or in connection with, any of the activities set forth above.
- (3) Purpose. This section is intended to regulate adult-oriented establishments in order to promote the health, safety, and general welfare of citizens of the Town of Oshkosh and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult-oriented establishments within the township. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the U.S. Constitution, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

- (4) Applicability. Upon any of the following events, an adult-oriented establishment shall comply with the provisions of this section:
- (a) the opening or commencement of an adult-oriented establishment;
 - (b) the conversion of an existing business, whether or not a adult-oriented establishment, to an adult-oriented establishment;
 - (c) the addition of an adult-oriented establishment to an adult-oriented establishment;
 - (d) the relocation of an adult-oriented establishment;
 - (e) the sale, lease, or sublease of an adult-oriented establishment;
 - (f) the transfer of securities which constitute a controlling interest in an adult-oriented establishment, whether by sale, exchange, or similar means; or
 - (g) the establishment of a trust, gift, or other similar legal device that transfers the ownership or control of an adult-oriented establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (5) Exclusions. This section does not apply to theaters, performing arts centers, civic centers, and dinner theaters where (1) live dance, ballet, music, and dramatic performances of serious artistic merit are offered on a regular basis; (2) the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and (3) the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this section seeks only to minimize and prevent the secondary effects of adult entertainment businesses on the community. Negative secondary effects have not been associated with the aforementioned establishments listed in this part.
- (6) Proximity to another establishment of the same kind. An adult-oriented establishment shall not be located within 600 feet of another adult-oriented establishment.
- (7) Proximity to specified zoning districts. An adult-oriented establishment shall not be located within 600 feet of a parcel of land in a residential zoning district or a planned development district that allows residential uses.
- (8) Proximity to other specified land uses. An adult-oriented establishment shall not be located within 600 feet of any of the following:
- (a) public library;
 - (b) public playground or park, including nature trails, pedestrian/bicycle paths, wilderness areas, or other public lands open for recreational activities;
 - (c) educational facility, including K-12 and post-secondary, but not including facilities used primarily for another purpose and only incidentally at a school;
 - (d) state licensed family day care home, group day care home, or day care center;
 - (e) worship facility;

- (f) any youth-oriented establishment;
- (g) tavern;
- (h) any commercial business, other than a tavern, holding a valid liquor license; or
- (i) farm dwelling.

If one of these specified uses locates within this area of separation after the adult-oriented establishment has been granted a building permit or occupancy permit, the adult-oriented establishment shall not be required to relocate.

- (9) Measurement of distances. For the purpose of this section, specified distances are measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure containing the adult-oriented establishment, to the nearest property boundary line of the parcel with the specified use or to the specified zoning district. If an adult-oriented establishment is located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the outer wall). The presence of a city, village, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.
- (10) Sale of alcohol. An adult-oriented establishment shall not sell, distribute, or allow consumption of alcoholic beverages on the premises, unless the town in which it is located has passed a resolution allowing alcohol in such establishments and has sent a certified copy of the same to the zoning administrator.
- (11) Building standards. All building openings, entries, and windows shall be located, covered, or screened in such manner so as to prevent the interior of such premise from being viewed from outside the establishment. An entry with a double set of doors may be used to meet this standard. Further, there shall be no display windows.
- (12) Special provisions for adult cabarets. An adult cabaret shall close no later than the closing time as may be established for taverns by the town in which this use is located.
- (13) Special provisions for adult motion picture theaters. An adult motion picture theater shall close no later than the closing time as may be established for taverns by the town in which this use is located. The viewing screen shall not be visible from a public park, road, street, highway, or residence. The premises shall be surrounded by a solid fence at least 8 feet in height. All theaters shall be in compliance with s. 134.46, Wis. Stats.
- (14) Prohibitions. The property owner and the operator of an adult-oriented establishment shall ensure that minors, as defined by state law (s. 990.01(20), Wis. Stats.), are not permitted on the premises. Solicitation for purposes of prostitution shall be strictly prohibited on the premises.
- (15) Physical contact with an entertainer. During a performance, an entertainer shall not have physical contact with another individual. To prevent such physical contact, performances shall occur on a stage or on a table that is elevated at least 18 inches

above the immediate floor level and shall not be less than 3 feet from any areas occupied by any patron. Patrons shall not be closer than 5 feet to an entertainer during a performance, including, but not limited to, during the payment of a tip or gratuity. An adult-oriented establishment existing on April 29, 2012, shall not have to reconstruct existing stages and tables to meet this requirement, but shall adhere to the prohibition against physical contact.

- (16) Signage. Signs advertising an adult-oriented establishment shall conform with article 12 of this chapter with the exception, however, that no tower or portable signs or billboards shall be permitted on the premises, and with the further exception that signs will not depict specified sexual activities, specified anatomical areas, or both and provided further that there shall be no flashing or traveling lights located outside of the building.
- (17) Special provisions related to review of application. As part of the review of a conditional use application for an adult-oriented establishment, the zoning administrator shall conduct an inventory of the surrounding area and population along with a study of the proposed development and plans for the area so as to enable the Planning and Zoning Committee to make appropriate findings relating to the effect of the establishment of an adult-oriented establishment in that area.

16-3-16-B BODY-PIERCING ESTABLISHMENT.

- (1) Locational standards. A body-piercing establishment shall not be located within 600 feet of another body-piercing establishment or a tattoo establishment. For the purpose of this section, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the exterior wall of the building containing the body-piercing establishment to the outer wall of the building containing the other specified land use. If one or both of the specified land uses are located in a multi-tenant building (e.g., shopping center), the measurement shall be taken from the outer boundary of such space (i.e. from the outer edge of the party wall or the exterior wall). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of applying the separation requirements of this section.
- (2) Sale of alcohol. A body-piercing establishment shall not also sell, distribute, or allow consumption of alcoholic beverages on the premises.
- (3) Building standards. A patron who is being pierced shall not be visible from the exterior of the building through a window or entrance to the building.
- (4) State license. Prior to the establishment of a body-piercing establishment, the operator shall obtain a license from the state as required by state law and maintain such license for the life of the use or until the state no longer requires such license. In addition, each practitioner shall obtain a license from the state as required by state law and maintain such license while at the establishment or until the state no longer requires such license.

16-3-16-C B-4 BUSINESS PARK DISTRICT (SEWERED ONLY).

- (1) Statement of Intent. The intent of this district is to provide for the development of a mixed grouping of both office /and/or light industrial uses and activities in a park-like setting. This district is further intended to promote the provision of appropriate off-street parking and loading areas, on-site open space, landscape plantings, and planting screens in areas adjacent to non-business or other incompatible land uses/zoning districts.
- (2) Principal Uses. The following and similar uses shall be permitted subject to the same process of application, except that a public hearing shall not be necessary. Upon written request by the Town of Oshkosh Town Board all site development plan review, approval, and enforcement within the B-4 district shall be done by the Town. When such review, approval and enforcement authority has been transferred to a Town, such authority shall remain with the Town for a period of not less than 12 months, after which time the Town may request the County take over this responsibility. When a Town has assumed the review, approval and enforcement authority, the plan review fee, if any, shall be as set forth by the Town.

- (a) All principal uses as set forth in Chapter 3.16 (2) and Chapter 3.24;
- (b) Research and development;
- (c) Printing and publication;
- (d) Professional offices and services including, but not limited to, accounting, architectural, chiropractic, dental, medical, engineering and legal services;
- (e) Business offices and services including, but not necessarily limited to, advertising agency, management consulting, manufacturing representatives, public relations, stenographic, travel agency and duplicating services;
- (f) Financial, insurance and real estate offices and services including, but not necessarily limited to, financial institutions, security brokers, holding and investments, insurance agency, insurance carriers, governmental and public services.
- (g) Health clubs, barber shops, beauty salons, florists (not including greenhouses) and studios for photography, painting, music, dance and other recognized fine arts where such uses are situated in the building of an approved principal use
- (h) Commercial child day care facilities.
- (i) Restaurants (not including drive-in or drive-thru facilities), when located in the building of an approved principal use.
- (j) One residential living quarter when located within the building of an approved principal use and provided occupancy thereof is restricted to an owner, manager, caretaker or employee of the principal business. Such living quarter shall not exceed 1000 square feet in floor space, or 1% of the total building floor space, whichever is less.
- (k) Outside storage yards accessory to an approved principal use, provided such storage is adequately screened from the surrounding view.

(3) Accessory Uses. Chapter 3.16 (3)(a)-(f) shall not apply in the B-4 zoning district. The following accessory uses shall be permitted:

- (a) Fences. Security fences are permitted on the side and rear property lines but no closer to the street yard property line than the principal structure. Security fences shall be of an open type (not more than 50% opacity) and shall not exceed 8 feet in height. Decorative and privacy fences (i.e. wooden, wrought iron, etc. vs chain link) not more than six (6) feet in height shall be permitted on the side and rear lot lines but no closer to the street yard property line than the principal structure. Decorative fences four (4) feet in height or less shall be permitted with a ten (10) foot street yard setback.
- (b) Outdoor Lighting. Outdoor lighting installation shall be regulated as follows:
 - 1. No light fixture shall exceed twenty-five (25) feet in height.
 - 2. All outdoor lighting fixtures shall be of a cut-off design (i.e. shall not emit light at an angle greater than 90 degrees from vertical).

3. All outdoor lighting fixtures shall be adequately shielded or directed so as to confine the area of light dispersion to the property and/or building area on which such fixture is located.
 4. Use of wooden poles for outdoor lighting shall be prohibited.
 5. The following types of lighting shall be prohibited except as otherwise approved by the Town Board:
 - a. Festoon lighting, "string" lighting or any light source erected in such a manner as to be subject to noticeable periodic movement as a result of wind pressure or atmospheric conditions.
 - b. Any artificial light source that creates glare within the normal range of vision from any public walk or thoroughfare under normal weather condition
 - c. Display of intermittent lights or flashing, blinking, moving, beacon or search lights except as follows:
 - I. Where such lights are required by State or Federal law.
 - II. Where such lighting is of a temporary nature including but not limited to holiday displays and grand opening events.
 - d. Exceptions to the aforesaid language may be granted by the Town Board for decorative lighting fixtures.
- (c) Signs. Signs shall be permitted in accordance with Chapter 7 and the sign regulations of the Township within which the business park development is to be located with the following exceptions for free standing signs.
1. Setback and clearance.
 - a. Within 15 feet of street. A freestanding sign, any part which is closer than fifteen (15) feet to the right-of-way, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height above the grade at the right-of-way line.
 - b. Intersections/ driveways. Any freestanding sign within twenty-five (25) feet of an intersection or fifteen (15) feet of a driveway shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of the ten (10) feet or shall be not more than three (3) feet in height above grade.

2. Off-premises signs. Off-premises signs shall be allowed under the following conditions:

- a. Parcels shall be contiguous or as a part of a joint development which is located on collection of parcels that are contiguous or adjacent.
- b. One off-premises sign shall be allowed advertising the uses of the contiguous parcels or joint development.
- c. Total area of this off-premises sign shall not exceed the total allowed area for each parcel combined but not to exceed in any circumstance 400 square feet.
- d. The area of the off-premises sign shall subtracted from the area allowed for the freestanding signs for each parcel.
- e. A comprehensive sign proposal shall be submitted addressing the plan for an off-premises sign and all other freestanding signs for contiguous parcels or joint development.

(d) Parking. Parking requirements shall be in accordance with Chapter 5 except as follows:

1. No driveway or parking area shall be located closer than ten (10) feet to a side or rear lot line or twenty-five (25) feet to a street yard lot line. That portion of driveway required for roadway access shall not be subject to the aforesaid street yard setback requirement.
2. All parking and driveway areas shall be hard-surfaced (i.e. blacktop, concrete, etc...) within twelve months of receiving approval to occupy the principal structure.
3. Alternative parking requirements may be approved as deemed appropriate by the approving authority.

(e) Garages and Storage Buildings. Detached garages and storage buildings for storage of vehicles, supplies, equipment used in conjunction with the operation of the premises or for use by the resident occupant of the premises subject to the following conditions:

1. No detached garage or storage building shall exceed 20 feet in height.
2. No detached garage or storage building shall be situated closer than 10 feet to a side or rear lot line nor shall a detached garage or storage building be situated closer to the street yard lot line than the principal structure.

- (f) Radio and Television Antennas. Radio and television antennas not attached to the principal structure may be permitted to the sides and rear of the principal structure provided they are setback from the die and rear property lines a distance equal to or greater than the height of the antenna. No radio or television antenna shall be situated closer to the street yard lot line than the principal structure.
- (g) Satellite Dishes. Satellite dishes shall be permitted subject to the following conditions:
1. Not more than one satellite earth station may be allowed per lot.
 2. Satellite earth stations shall be allowed in rear and side yards, however, satellite stations may not be any closer to the streetline than the established setback of the principal building or structure.
 3. Side and rear yard setbacks shall be equal to or greater than the required side and rear yard setbacks for the principal structure, but not less than the total vertical height of the satellite earth station.
 4. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be permitted subject to engineering calculations being prepared by a registered professional engineer certifying that the proposed satellite earth station is structurally sound. A building mounted satellite earth station where visible from the front lot line will be permitted only when reception would not be possible from a less conspicuous location as verified by appropriate test data.
 5. The owner who proposes a building-mounted satellite earth station must also submit a plan for screening the satellite earth station from surrounding properties in a manner that is appropriate to the architecture of the building. Building mounted satellite earth stations shall not exceed the maximum height regulation of the zoning district in which they are located.
 6. Ground mounted satellite earth stations located where visible to adjacent streets or roadways or neighboring properties shall be of a dark color and effectively screened by the use of appropriate landscaping or a structure (i.e. 100% opaque screening).
 7. All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All installations shall meet a minimum wind load design velocity of 80 m.p.h.
 8. No form of advertising or identification is allowed on the dish or framework other than the customary manufacturer's identification plates.
 9. Portable or trailer mounted satellite earth stations are not allowed. Exception: Temporary installations for on-site testing and demonstration purposes may be

allowed for periods not to exceed 48 hours with prior approval from the Town Building Inspector or his/her designee.

10. Electrical installations in connection with earth satellite receiving stations including grounding of the systems shall be in accordance with National Electrical Code Standards.
11. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground.
12. Satellite earth stations that cause any interference with radio and/or television broadcasting or reception on nearby properties shall be governed in accordance with Federal Communications Commission Standards.
13. No satellite earth station shall be erected without first obtaining a building and zoning permit.

(4) General Regulations.

- (a) No use which is offensive by reason of odor, smoke, fumes, dust, noise, vibrations, radioactive emissions, pollution, or which presents excessive danger for fire or explosion shall be permitted.
- (b) Site access shall be oriented toward internal circulation drives with limited access points to existing roads.
- (c) All business park developments shall be serviced by underground utilities and infrastructure.
- (d) No transformer, electric, gas or other meter of any type shall be visible from the surrounding roadways or neighboring properties.
- (e) Curb, gutter and storm sewer shall be required in all business park developments or alternative methods may be approved as deemed appropriate by the approving authority.
- (f) All business, servicing, processing, or storage except for off-street loading and parking areas, shall be conducted within completely enclosed buildings unless otherwise permitted herein or specifically approved by the Planning and Zoning Committee or Town Board of Supervisors.
- (g) To alleviate any potential off-site impacts due to increased storm water run-off attributable to the business park development, one or more storm water retention/detention areas may be required. If such retention/detention areas are required, it shall be the responsibility of the property owner or, if applicable, the Property Owners Association, to provide maintenance and upkeep thereof.

(5) Basic District Standards.

(a) Lot Coverage/Open Space. Not more than 70 percent of the lot shall be covered by an impervious surface (i.e. buildings, structures, pavement, etc.). The open space configuration shall be an important element in the site plan review process.

(b) Building Size/Floor Area Ratio. The building(s) floor area ratio shall not exceed 70 percent. The floor area ratio shall be calculated as the gross floor area of all buildings on a site divided by the gross site area.

(c) Building Height.

1. Principal structures. Principal structures shall not exceed 50 feet in height.

(d) Yards.

1. Street. All structures shall be setback a minimum of 30 feet from any public, private, or officially mapped street/right-of-way.
2. Rear. All structures shall be setback a minimum of 25 feet from the rear property line except as otherwise specified in this section.
3. Side. All structures shall be setback a minimum of 10 feet from the side property line except as otherwise specified in this section.
4. Shore. All structures shall be setback a minimum of 75 feet.

*The above yards shall apply except where any portion of the development is adjacent to a residentially zoned property, in which case the Planning and Zoning Committee and Town Board of Supervisors may require an increased setback of up to 50 feet if deemed necessary to prevent an adverse impact of the residential site.

(e) Loading Docks. Loading docks shall generally not face a dedicated or reserved public street. Sufficient on-site space shall be provided for each principal use as will enable the maneuvering of trucks to and from the loading docks without using public streets.

(f) Roof-Mounted Equipment. All roof-mounted equipment shall be located, screened and/or painted using colors and architectural materials compatible with the principal building in order to minimize its visibility from streets and neighboring properties.

(g) Outside Storage.

1. All required setback yard areas shall be landscaped and kept clean and free from the accumulation of debris and/or refuse and shall not be used for the storage or display of any equipment, materials, products, vehicles or supplies.
 2. All development sites shall provide a refuse storage area adequate in size to serve the business uses situated thereon. Refuse storage receptacles shall be entirely screened from the view of surrounding properties and streets and the screening shall be of a height not less than the height of the refuse receptacle.
 3. Refuse storage areas shall be permitted only to the rear of the principal structure. In no case shall a refuse storage area be situated closer than 20 feet to a side or rear property line.
 4. Refuse storage areas shall be fully screened from view with a solid wood fence or masonry enclosure.
- (h) Landscaping. Within one year of receiving approval for building occupancy, all yard areas shall be graded, landscaped and planted with trees, shrubs, ground cover and appropriate natural landscaping materials. Landscaping shall relate to the paved and building areas of the site relative to massing, size, shape and color. At the time of planting, vegetation shall be of sufficient size as to noticeably enhance the site (i.e. whips are inappropriate as primary landscaping elements). Plant material shall be of hardy quality, preferably native to Wisconsin.
- (i) Architectural Control.
1. All exterior building walls shall be of the same color scheme and shall utilize the same architectural materials.
 2. The exterior building walls lower one-third or lower seven feet (whichever is less) shall be of masonry, stone, glass or architectural pre-cast concrete panels.
 3. Plain concrete blocks are prohibited on any exterior surface of a building.
- (j) Sanitation. In the interest of maintaining compact development patterns which in turn promotes efficiency in the delivery of public services such as police and fire safety, transportation, etc. B-4 (Business Park) developments shall be required to utilize municipal sewage disposal systems. Private on-site sewage systems such as septic, mound and holding tanks are expressly prohibited in the B-4 district.
- (6) Basis for Approval.
- (a) To implement the intent of the B-4 district as set forth in Chapter 16C site development plan review shall take into consideration, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading areas, highway access, traffic

generation and circulation, drainage, sewerage and water systems, and proposed operation. The Planning and Zoning Committee or Town Board of Supervisors will approve said site plans only after determining that:

1. The proposed use(s) conform(s) to the uses permitted in that zoning district.
2. The dimensional arrangement of building and structures conform to the required area, yard, setback, and height restrictions of this section.
3. The proposed use conforms to all use and design provisions and requirements (if any) as found in this section for the specified uses.
4. There is a proper relationship between the existing and proposed streets and highways within the vicinity of the projects in order to assure the safety and convenience of pedestrian and vehicular traffic.
5. The proposed on-site buildings, structures, and entryways are situated and designated to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion control, grading, lighting, and parking, as specified by this section and any other codes or laws.
6. Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
7. Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this section.
8. Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.
9. The site plan is consistent with the intent and purpose of this section, which is to promote the public health, safety and general welfare, to encourage the use of lands, in accordance with their character and adaptability, to avoid overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing community development plans.

16-3-17 P-1 INSTITUTIONAL & RECREATIONAL PARK DISTRICT.

(1) Statement of Intent. The intent of this district is to provide an area for public and private institutional and recreational uses. The area utilized for such a district should be such that it is compatible with and is an asset to the surrounding land uses.

(2) Principal Uses. Public and private institutional uses, e.g.:

- (a) Arboretums
- (b) Botanical Garden
- (c) Cemeteries
- (d) Colleges & University
- (e) Conservatories
- (f) Funeral Homes
- (g) Gymnasiums
- (h) Hospitals
- (i) Parks, Playgrounds, etc.
- (j) Religious & Charitable Institutions
- (k) Sanitariums
- (l) Schools
- (m) Public and private landfills licensed by the State of Wisconsin

(3) Basic District Standards.

- (a) Building.
 - 1. Height--Maximum--50 ft.
- (b) Yards.
 - 1. Street--Minimum--75 ft.
 - 2. Government Buildings--Minimum--30 ft.
 - 3. Rear--Minimum--50 ft.
 - 4. Side--Minimum--15 ft. ea.
 - 5. Shore--Minimum--75 ft.

(4) Conditional Uses. (According to Chapter 4.)

- (a) Airports, airstrips, and landing fields with a minimum area of 20 acres.
- (b) Public and quasi-public cultural recreational facilities, e.g.:
 - 1. Golf Courses.

2. Campground.
3. Driving Ranges.
4. Race Tracks.
5. Exposition & Fairgrounds.
6. Riding Academies & Stables.
7. Sport Fields.
8. Zoological and Botanical Gardens.
9. Archery and Firearm Ranges (outdoor).

- (c) Penal Institutions.
- (d) All Conditional Uses listed under Chapter 4.

(5) Accessory Uses.

- (a) All accessory uses listed under Chapter 3.13.
- (b) Clubs, taverns, nightclubs, restaurants, and convenience goods and services, etc. when supportive of the Principal Use.
- (c) All equipment and improvements used in conjunction with the Principal Use.

16-3-18 AGRICULTURAL CONDITIONAL USES.

Agricultural conditional uses and their accessory uses are considered as special uses which require review, public hearing, and approval - if there is approval - all in accordance with Section 4.0 of this Ordinance. In addition to those stated under Sec. 2.9, and unless otherwise specified, the following shall be conditional uses in all Agricultural districts of this Ordinance:

- (1) Airports, Airstrips and Landing Fields - agricultural and nonagricultural related, with a minimum of 20 acres and compliance with all FAA Regulations
- (2) Cemeteries and Colleges and religious and charitable institutions, Crematories, Universities
- (3) Condenseries, Creameries, Commercial butchering of animals, Commercial boarding of stable animals, Migratory Laborer Housing, Animal Hospitals
- (4) Sludge Disposal (Disposal must be in accordance with NR 113 of The Wisconsin Administrative Code.)
- (5) Storage and maintenance of construction equipment and vehicles is permitted as a conditional use if the storage area for all such equipment and vehicles is at least six hundred (600) feet from Residential, and Public and Semi-Public Districts. Except not allowed in A-1 "Agri-Business District".
- (6) Mobile home(s) which shall be occupied as an accessory use to the farm operation, except in the A-1 Agri-Business District, the occupant must earn a substantial part of his/her livelihood from farm operations on the parcel, providing:

- (a) The Zoning Administrator verifies - in writing - said use of the proposed mobile home(s).
 - (b) The farm operator agrees - in writing - that discontinuance of the Mobile home occupancy as the specified accessory use will necessitate removal of the mobile home.
 - (c) The conditional use shall be renewed every two (2) years.
- (7) Farming operations, e.g. duck, turkey, mink farms, which involve potential nuisance conditions requiring special waste disposal and treatment facilities, e.g. lagoons and/or overhead irrigation disposal systems.
- (8) Nurseries and Orchards for commercial use.

16-3-19 AGRICULTURAL ACCESSORY USES.

In addition to those accessory use specified under Sec. 2.9 (2) and 3.3, the following accessory standards shall apply in all Agricultural Districts:

- (1) Security fences are permitted on the property line, but shall not exceed ten (10) feet in height and shall be of an open type or similar to woven wire or chain link fencing.
- (2) Signs are permitted according to Sec. 7.0.
- (3) One (1) roadside stand on any one (1) farm shall be permitted, providing it will be used only for the sale of the farm products raised on said farm.
- (4) Outbuildings.

16-3-20 A-1 AGRI-BUSINESS DISTRICT.

- (1) Statement of Intent. The intent of this district is to identify and to establish those areas of the Town suited to the economics of large-scale agricultural uses. In turn, the value of this land is to be maintained by protecting these areas from the intrusion of urban uses. The location of this district should encompass sufficient acreage where soil characteristics and/or existing operations will facilitate extensive production of crops; forest products; livestock, poultry and their products; and dairy products. Identification of such districts should be by the use of detailed soil maps and by production records of the State of Wisconsin, Department of Agriculture.
- (2) Principal Uses.
- (a) Agricultural.
 - (b) Beekeeping.
 - (c) Dairying.

- (d) Fish Farms.
- (e) Floriculture.
- (f) Forestry.
- (g) Fur Farms.
- (h) Grazing.
- (i) Greenhouse.
- (j) Hay.
- (k) Livestock Raising.
- (l) Orchards.
- (m) Paddocks.
- (n) Pasturage.
- (o) Plant Nurseries.
- (p) Poultry Raising.
- (q) Stables.
- (r) Sod Farming.
- (s) Truck Farming.
- (t) Viticulture.
- (u) Wild Crop Harvesting.
- (v) Raising of:

- 1. Cash Crops.
- 2. Mint.
- 3. Grass.
- 4. Seed Crops.
- 5. Silage.
- 6. Nuts and Berries.
- 7. Vegetables.

(w) Barns, Silos, etc.

- (3) Special Argi-Business Provisions. Establishment of a lot(s) for existing dwellings not accessory to any farm operation and farm dwellings remaining after consolidation of neighboring farms, and for new lot creations for farm dwellings as permitted in Chapter 3.20(c) and (6)(b), are permitted, providing the lot shall comply with all the provisions of the applicable residential district. Dwellings on lots established under this section shall be considered conforming dwellings.

New dwellings on any parcel less than 35 acres in size shall not be allowed unless the dwelling is intended to be occupied by the farm owner, operator, or parent or son or daughter of the owner or operator.

- (4) Basic District Standards.

- (a) Structure.
 - 1. Height--Maximum--None.

(b) Yards.

1. Street--Minimum--75 ft.
2. Rear--Minimum--50 ft.
3. Side--Minimum--15 ft. ea.
4. Shore--Minimum--75 ft.

(5) Conditional Uses. (According to Chapter 3.18)

(a) All uses specified under Chapter 3.18

(b) Town halls, town offices and town fire stations.

(c) Farm dwellings which are for those resident laborers including family of operator or laborers, who earn any part of their livelihood from farm operations on the parcel, provided the Town Board verifies--in writing--said use of proposed residential unit. (Yard standards according to the applicable residential district).

(d) All uses listed as conditional uses in Chapter 3.21 General Farming District.

(6) Accessory Uses.

(a) All uses listed under Chapter 3.19.

(b) Farm dwellings, (one- and two-family) for those resident owners and parents or children of the farm operator who earn any part of their livelihood from farm operations on the parcel. (Yard standards according to the applicable residential district).

16-3-21 A-2 GENERAL FARMING DISTRICT.

(1) Statement of Intent. The intent of this district is to allow the development of small-scale farming activities characterized by the mixed crop of the traditional "family farm" along with residential growth as characterized by "hobby farms" and scattered residential development. This district can be located in those areas where the occurrence of scattered urban uses are likely to occur. However, the agricultural district is to be recognized as the dominant activity of the area. While the basic zoning district may remain A-2, the actual use of the property may be as a "farm", "hobby farm", or "residential agricultural".

(2) Determination of Intent. Allowable uses within the A-2 District shall be based upon the type of agricultural use existing and proposed for the property. This determination shall be based among other things, ON ONE OR MORE OF THE FOLLOWING: occupation(s) of the owner; gross farm income of the owner based upon such things as land rental, sale of crops or commodities, or sale of livestock

where documentation of said income can be provided on an official signed statement by the owner clarifying that at least part of their gross income is from a filed Federal Schedule "F"; property size; past history of the use of the property; and intent of the owner.

(3) Principal Uses - Farm. All uses permitted in the A-1 "Agri-Business District" plus a one-family dwelling. Dwelling size according to R-1 District standards.

(4) Principal Uses - Hobby Farm.

(a) All uses permitted in the A-1 "Agri-Business District", except barns, silos, and other accessory buildings shall not be permitted until the dwelling is either present or under construction, or a conditional use has been granted.

(b) Single family dwellings with a minimum width of 20 ft., measured from the narrowest part of the structure and containing a minimum area of 900 square feet.

(5) Principal Uses - Residential Agricultural. Single family dwellings with a minimum width of 20 ft., measured from the narrowest part of the structure and containing a minimum area of 900 square feet.

(6) Basic District Standards - Farm.

(a) Non-residential farm buildings.

1. Height--Maximum--None.

2. Yards.

Street--minimum--75 ft. from right-of-way

Rear--minimum--50 ft.

Side--minimum--15 ft. each side yard

Shore--minimum--75 ft.

(b) Residential Dwellings. Height and all setbacks according to the R-1 District standards.

(7) Basic District Standards - Hobby Farm.

(a) Non-residential farm buildings.

1. Height - same as farm.

2. Yards - same as farm.

(b) Residential dwelling. Height and all setbacks according to R-1 district.

(8) Basic District Standards – Residential Agricultural.

- (a) Non-residential buildings. Height, area & all setbacks according to R-1 district only where principal structure is present or under construction otherwise prohibited.
- (b) Residential dwelling. Height and all setbacks according to R-1 district.

(9) Garage Standards.

- (a) Garages shall be allowed as an accessory use where the residential dwelling is present or under construction. Garage size, height, and location shall be determined by either the R-1 (single family) or R-3 (duplex) accessory standards as may be applicable.

(10) Conditional Uses.

(a) Farm.

1. All uses specified under Chapter 3.18
2. All uses specified under the applicable Residential use (R-1 or R-3).
3. Kennels (commercial) animal hospitals, commercial activities related to the farm operation which are characterized by an admission fee or sales operation normally falling within a retail commercial district as in Chapter 2.9(7).
4. Duplexes
5. All uses specified under Chapter 3.20.

(b) Hobby Farm.

1. All conditional uses specified under 3.21.
2. All uses specified under 3.20
3. Non-residential farm buildings where no house is present.

(c) Residential Agricultural. All conditional uses specified under Chapter 3.4 “Rural Residential District”.

(d) Passive Recreation.

(11) Accessory Uses.

(a) Farm. All uses specified in Chapter 3.19.

(b) Hobby Farm. All uses specified in Chapter 3.19

(c) Residential Agricultural. All uses specified in Chapter 3.3.

16-3-21A AGRICULTURAL DEVELOPMENT OVERLAY DISTRICT (ADO).

(1) Statement of Intent. The intent of the district is to allow for certain commercial, quasi-commercial or industrial activities which may be a suitable form of development in various rural areas of the Town, cognizant of the fact that the normal commercial or industrial zoning districts typically allow for uses which are not appropriate or compatible in an agricultural setting.

(2) Location. This district may only be applied to an A-1 or A-2 area.

(3) Development Requirements:

(a) development within the ADO shall only be done by Conditional Use Permit.

(b) prior to submission of a Zoning Change application, the applicant shall submit a scale drawing of the proposed project to the Town for review and comment. The intent of the review is to determine tentative suitability prior to making a formal application. In addition to the submission of the scale drawing, the applicant shall prepare and submit a written statement relative to why the ADO process is more appropriate for the proposed use and shall address compatibility with all adopted land use plans that may be applicable to the site.

(c) unless otherwise provided, when applied to a specific area, the ADO shall require development to be designed, reviewed, approved, constructed and administered according to this section rather than the underlying, or other, district(s).

(d) this district shall not be applied to a parcel containing a residence.

(e) where applied to an A-1 (Exclusive Agricultural) District, the proposed activity shall be a "use consistent with agricultural use" as defined in Section 91.01(10), Wisconsin Statutes.

(4) Permitted Uses. None.

(5) Conditional Uses.

- (a) all permitted uses of the A-1 and A-2 Districts, except that no residential structures shall be allowed.
- (b) all conditional uses of the A-1 and A-2 Districts
- (c) all conditional uses specified under Chapter 3.18.
- (d) mini-warehouses.

(6) Development Standards.

(a) Setbacks (Principal Structures):

Street:	50' minimum
Rear:	50' minimum
Side:	25' each side minimum

- (b) Setbacks (Accessory Structures). All accessory structure setbacks shall be as determined and required by Conditional Use Permit approval.

(7) Procedural Standards.

- (a) Standards for review and approval shall be governed by Chapter 4.
- (b) Conditions of approval may be used by an approval authority to achieve the type of development that will be most compatible with its intended location.
- (c) Unless otherwise noted in this section, conditions of approval may provide alternate standards, either more or less restrictive than those prescribed in other sections of the ordinance.
- (d) Conditions that address items such as, without limitation, increased setbacks; vegetative screening; landscaping; lighting type, height, location and shielding; impervious surfaces; signage, including style, location, and lighting; parking; architectural control such as building appearance or type of construction; construction commencement and completion dates; fencing type, location, and height; may be required by an approval authority upon its finding that these conditions are necessary to fulfill the purposes of this section.
- (e) Setback provisions of this section may only be increased, not decreased.
- (f) The provisions of the Stormwater Ordinance pertaining to erosion control and stormwater management shall remain in effect and shall not be modified by this section.

16-3-22 INDUSTRIAL CONDITIONAL USES.

Industrial conditional uses and their accessory uses are considered as special uses which require review, public hearing, and approval - if there is approval - all in accordance with Section 4.0 of this Ordinance. In addition to those stated under Sec. 2.9 (4), the following shall be conditional uses in all industrial districts of this Ordinance:

- (1) Public passenger transportation terminals, except airports, airstrips and landing fields, provided all principal structures and uses are not less than three hundred (300) feet from any Residential district boundary.
- (2) Animal hospitals provided all principal structures and uses are not less than three hundred (300) feet from any Residential, Business, or, Agricultural use.

16-3-23 INDUSTRIAL ACCESSORY USES.

In addition to those accessory uses and standards specified under Sec. 2.9 (2) and 3.3, the following accessory standards shall apply in Industrial districts:

- (1) Security fences are permitted on the property line, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or chain link fencing - unless other specified by the conditional use permit.
- (2) Outdoor lighting installations are permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties, and shall meet all state electrical codes with height not to exceed 25 ft.
- (3) Signs are permitted according to Section 7.0.
- (4) Parking is required according to Section 5.0.
- (5) Storage facilities, power supply buildings and other uses normally supportive of the Principal Use.

16-3-24 M-1 LIGHT INDUSTRIAL AND OFFICE DISTRICT.

- (1) Statement of Intent. The intent of this district is to provide for the development of so-called "clean" industrial employment centers within the immediate vicinity of residential neighborhoods. As with any activity which draws users from beyond the immediate population which surrounds it, suitable traffic routes and parking facilities must be integral to the location and plot plan design of the district.

(2) Principal Uses. The following and similar uses are permitted subject to approval by the Planning and Zoning Committee as to location and operations (provided there is no outside storage of equipment or products):

- (a) General, clerical and professional offices.
- (b) Research and testing laboratories, schools and training centers.
- (c) Cleaning, pressing and dyeing establishments.
- (d) Commercial greenhouses.
- (e) Wholesalers and distributors.
- (f) Food locker plants, cold storage warehousing, etc.
- (g) Light industrial plants such as required for production of millwork, machine tools, paper containers, light metal fabrication, and similar small industries.
- (h) Manufacture, fabrication, packing, packaging, processing & assembly of confections, cosmetics, electrical appliances, electronic devices, foods (except garbage, fish and fish products, meat and meat products, and pea vinerries), instruments, jewelry, pharmaceuticals, tobacco, and toiletries.
- (i) Manufacturing and bottling of non-alcoholic beverages.
- (j) Painting, printing, publishing establishments.
- (k) Commercial bakeries and trade and contractor's offices.

(3) Basic District Standards.

- (a) Building.
Height--Maximum--45 ft.
- (b) Accessory Building.
Height--Maximum--30 ft.
- (c) Yards.
Street--Minimum--30 ft.
Rear--Minimum--25 ft.
Side--Minimum--7 ft. one side; 10 ft. other side
Shore--Minimum--75 ft.

* The above yards apply except where any portion of the parcel is adjacent to a residential district. When adjacent to a residential district, a Building Site and

Operational Plan (B.S.O.P.) must be submitted to and approved by the Planning and Zoning Committee. The B.S.O.P. is to indicate how the activities proposed on the parcel will be prevented from causing an adverse impact on adjacent residential parcels. Where the Committee determines that increased setbacks may be required, the affected setback shall not be more than the following: Street, side and rear -- 50 ft.

(4) Approval of Building Site and Operation Plans.

(According to Chapter 4). All structures and substantial improvements for principal uses subject to the following:

- (a) No merchandise shall be handled for sale or service rendered on the premises except such as are incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial customers.
- (b) All operations and activities of all uses within this district shall be conducted wholly inside a building or buildings.
- (c) No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residential district.
- (d) No toxic matter, noxious matter, smoke, or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (e) No vibration shall be detectable beyond the lot lines.
- (f) No glare or heat shall be detectable beyond the lot lines.
- (g) The storage or use of chemicals either solid, liquid or gas, shall be subject to the following conditions:
 - 1. The storage, utilization or manufacturing of materials or products ranging from incombustible to moderate burning is permitted.
 - 2. The storage, utilization or manufacturing of materials or products ranging from free to active burning is permitted providing the following condition is met:
 - (a) Said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 - 3. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

(5) Conditional Uses. (Chapter 4)

(a) All uses specified under Chapter 3.22

(b) Outside Storage Yards.

16-3-25 M-2 HEAVY INDUSTRIAL DISTRICT.

(1) Statement of Intent. The intent of this district is to provide for industrial uses often considered offensive or unique by nature. Therefore, the location of this district often requires isolation from most of the community's population or placement within an industrial park.

(2) Principal Uses. The following uses and similar uses are permitted subject to approval by the Planning & Zoning Committee:

(a) All principal uses of the B-3 "General Business District."

(b) All principal uses of the M-1 "Light Industrial and Office District."

(c) Freight yards, freight terminals and trans-shipment depots.

(d) Inside storage warehouses.

(e) Breweries.

(f) Crematories.

(g) All other manufacturing, assembling, or processing not otherwise requiring Conditional Use Permit.

(h) Vehicle body shops, vehicle wholesale and auction centers, but not including the storage of junked or wrecked vehicles.

(3) Basic District Standards.

(a) Building.
Height--Maximum--None.

(b) Accessory Buildings
Height --Maximum--None

(c) Yards.
Street--Minimum--30 ft.
Rear--Minimum--25 ft.

Side--Minimum--7 ft. one side; 10 ft. other side
Shore--Minimum--75 ft.

(4) Approval of Building Site and Operation Plans. (According to Chapter 4).

- (a) All structures and substantial improvements for principal uses.
- (b) All such uses listed under the B-3 "General Business District."
- (c) All such uses listed under the M-1 "Light Industrial District", except (4)(b) and (4)(g)(3).

(5) Conditional Uses. (According to Chapter 4.)

- (a) All uses specified under Chapter 3.22.
- (b) Airports, airstrips, and landing fields, provided the site area is not less than twenty (20) acres provided they meet F.A.A. requirements.
- (c) The following and similar uses, provided such uses shall be at least six hundred (600) feet from any residential or public district:

1. Manufacturing and/or processing of such items as:

- 1) Abrasives.
- 2) Acetylene.
- 3) Acid.
- 4) Alkalies.
- 5) Ammonia.
- 6) Asbestos.
- 7) Asphalt.
- 8) Batteries.
- 9) Bedding.
- 10) Bleach.
- 11) Bone.
- 12) Cabbage.
- 13) Candles.
- 14) Carpeting.
- 15) Celluloid.
- 16) Cement.
- 17) Cereals.
- 18) Charcoal.
- 19) Chemicals.
- 20) Chlorine.
- 21) Coal Tar.
- 22) Coffee.

- 23) Coke.
- 24) Condenseries.
- 25) Cordage.
- 26) Creameries.
- 27) Creosote.
- 28) Dextrine.
- 29) Disinfectant.
- 30) Dye.
- 31) Excelsior.
- 32) Felt.
- 33) Fish.
- 34) Fuel.
- 35) Furs.
- 36) Gelatin.
- 37) Glucose.
- 38) Gypsum.
- 39) Hair Products.
- 40) Ice.
- 41) Ink.
- 42) Insecticide.
- 43) Lampblack.
- 44) Lime.
- 45) Lime Products.
- 46) Linoleum.
- 47) Matches.
- 48) Meat.
- 49) Oil Cloth.
- 50) Paint.
- 51) Paper.
- 52) Peas.
- 53) Perfume.
- 54) Pickles.
- 55) Plaster.
- 56) Plaster of Paris.
- 57) Plastics.
- 58) Poison.
- 59) Polish.
- 60) Potash.
- 61) Pulp.
- 62) Pyroxylin.
- 63) Radium.
- 64) Rope.
- 65) Rubber.
- 66) Sausage.
- 67) Shoddy.
- 68) Shoe and Lampblacking.

- 69) Size.
- 70) Starch.
- 71) Stove Polish.
- 72) Textiles.
- 73) Varnish.

- (1) Manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.*
- (2) Manufacturer and bottling of alcoholic beverages; bag cleaning; bleacheries; canneries; cold storage warehouses; electric and steam generating plants; electroplating; enameling; forages; foundries; garbage; incinerators; lacquering; lithographing; offal, rubbish, or animal reduction; oil, coal and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving.
- (3) Outside storage and manufacturing areas.
- (4) Wrecking, junk, demolition, and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semi-public districts.
- (5) Commercial service facilities, such as restaurants and fueling stations, provided all such services are physically and saleswise oriented toward industrial district users and employees and other users are only incidental customers.
- (6) All Conditional Uses under B-3 "General Business District."

* The storage of flammables and gasoline shall require compliance in accordance with all applicable state requirements.

16-3-26 M-3 EXTRACTION OR LANDFILL DISTRICT.

- (1) Statement of Intent. The intent of this district is to permit resource extraction operations as long-term transitional uses. The intent of these regulations is to minimize potential adverse effects of these uses on adjacent lands while operations are active and to restore the site of operations to the maximum extent practicable after operations have been ceased.
- (2) Permits. An "Extraction Permit" is required for all mineral extraction operations including those lawfully existing prior to the adoption of this section. New mineral extraction operations and expansions of lawfully existing operations shall adhere to conditional use procedures as described in Chapter 3.26 of this ordinance. As such, all mineral

extraction operations including those lawfully existing prior to the adoption of this section shall adhere to the following permit requirements:

- (a) The manufacture of asphalt or concrete is only permissible where property is zoned M-2 "Heavy Industrial District" or M3.
 - (b) No permit shall be issued without submittal of a plan of operation and a plan of reclamation in compliance with the standards and requirements of this section.
 - (c) Any mineral extraction operation or activity conducted without a permit after 180 days of the effective date of adoption of this section shall be deemed in violation of this ordinance.
 - (d) Permits shall be issued for a term of six years, renewable by request to the Town of Oshkosh, for terms of six years. Any activity conducted in compliance with a lawfully issued permit which subsequently becomes noncompliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the permit.
 - (e) Transfer of Permit. When an operator succeeds to the interest of another in an uncompleted site, the Town shall release the present operator of the responsibilities imposed by the permit only if:
 1. Both operators are in compliance with the requirements and standards of this section and;
 2. The new operator assumes the responsibility of the former operator's permit requirements.
- (3) Standards. The following standards shall apply to all mineral extraction operations and activities including those operations and activities lawfully existing prior to the adoption of this section.
- (a) Standards of Operations.
 1. Provisions of Chapter NR 415.04 and 429, Wisconsin Administrative Code, regarding air quality emissions shall be administered by the Wisconsin Department of Natural Resources. Provisions of Chapter ILHR 7.60 et seq., Wisconsin Administrative Code, regarding blasting shall be administered by the Wisconsin Department of Industry, Labor and Human Relations.
 2. Roads, machinery and equipment shall be located, constructed and used in such a manner as to minimize noise, dust and vibrations.
 3. No operations or activities may be commenced before 6:00 a.m., Monday through Saturday or continue past 6:00 p.m., Monday through Friday or 2:00

p.m. on Saturday where any residence or commercial establishment open to the public is located within 500 feet of the exterior boundary of the site. The Planning and Zoning Committee may authorize specific activities past 6:00 p.m., Monday through Friday and past 2:00 p.m., on Saturday for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust and vibration associated with the activity. In no event shall any operation within 500 feet of a residence be authorized to conduct activities past 10:00 p.m., Monday through Friday or 7:00 p.m. on Saturdays.

(b) Setback Requirements.

1. No operations or activities, including berm construction, shall be conducted within 200 feet of any right of way line or within 200 feet of any exterior boundary of the site where a residence is located within 500 feet of the exterior boundary of the tract.
2. The Planning and Zoning Committee may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within 25 feet of any exterior boundary of the tract for sites lawfully existing before the effective date of this section. Exemptions may be authorized by the Planning and Zoning Committee for berms located closer than 25 feet from the exterior boundary of the tract for sites lawfully existing before the effective date of this ordinance.
3. The Planning and Zoning Committee may authorize continued vertical removal of materials to within 50 feet of the exterior boundary of the site for sites lawfully existing before the effective date of this section.
4. In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within 50 feet of any exterior boundary. In exercising their authority under this subsection, the Planning and Zoning Committee may attach reasonable conditions including but not limited to more stringent hours of operation, landscaping, and fencing.
5. The Planning & Zoning Committee may authorize a reduction in the 200' or 50', setback requirement where the extraction will not go below either the grade of the adjacent road, or the adjoining property line, and where no blasting is required. In applying the provisions of this section, the Committee may reduce the setbacks as deemed appropriate, and may apply other operational requirements necessary to offset any effect of the reduced setback.
6. Two adjacent extraction sites may have a zero foot setback on the common lot line, or line between sites, provided both operators agree in writing.

(4) Conditional Uses. New mineral extraction operations, expansions of lawfully existing operations, and bio-remediation or other similar sites shall be a conditional use in M3

Zoning District only. Conditional use procedures, as described in s. 17.25 of this ordinance, shall be adhered to as well as to the requirements of this section.

- (5) Plan of Operation. All mineral extraction operations including those operations and activities which lawfully existed prior to adoption of this section shall prepare a plan of operation for the site which shall include the following information:
- (a) Statement of ownership of the parcel and control of the operations.
 - (b) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
 - (c) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.
- (6) Reclamation Permit. A copy of the approved reclamation permit required by NR 135 shall either accompany all applications or be required prior to a conditional use permit becoming issued and effective.
- (7) Definitions.
- (a) Expansions of Lawfully Existing Operation(s) - progression of mineral extraction operations onto a contiguous parcel or parcels of land purchased, owned or leased after the effective date of this section.
 - (b) Lawfully Existing Mineral Extraction Operation - a mineral extraction operation existing before the effective date of this section, including any contiguous parcels purchased, owned or leased by the same operator before the effective date of this section and said operation and contiguous parcels are devoid of any present County permit violations at the time of adoption of this section.
 - (c) Mineral Extraction Operation - Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates. Mineral aggregates shall include, but are not limited to, rock, stone, sand and gravel and other nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. Also constituting mineral extraction operations are such related operations and activities as excavation, grading, or dredging, if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals, and related processes such as crushing, screening, scalping, dewatering and blending. Additionally, storage and stockpiling of materials produced on site only, shall

constitute mineral extraction operation. The definition for Mineral Extraction Operation shall not apply to the following activities:

1. Operations affecting less than 5 acres and for the exclusive use of the property owner, provided no material is removed from the property(s).
2. Premining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit.
3. Excavation in conjunction with utility installation, which is to be backfilled.
4. Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Wisconsin Department of Transportation and/or other governmental bodies.
5. Excavation which by nature is of limited duration such as graves, septic tanks, and swimming pools.
6. Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property.
7. Excavation for structures, parking areas, and stripping of up to One and one half (1 ½) feet of topsoil for the development of subdivisions, following subdivision approval.
8. Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property.
9. Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and/or other governmental bodies.
10. Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.
11. Excavation related to sod farming.
12. Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats., pertaining to metallic mining.
13. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under ss. 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under ss. 144.60 to 144.74, Wis. Stats., for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering of said disposal sites.

14. Any other uses determined to be exempt by the Planning and Zoning Committee.

- (a) New Mineral Extraction Operation - A mineral extraction activity on one or more parcels that are separated by a public road or are not contiguous to a lawfully existing mineral extraction operation, including land purchased, owned or leased before the effective date of this ordinance without prior extraction activity.
- (b) Operator - any person who is engaged in a mineral extraction operation or who applies for or holds a mineral extraction permit issued under this section whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

16-3-27 WIRELESS COMMUNICATIONS FACILITIES.

(1) Statement of Intent. The purpose of this ordinance is to establish general guidelines for the siting of towers and antennas. The intent of this ordinance is to:

- (a) encourage the location of towers in non-residential areas and to minimize the total number of towers throughout the Town.
- (b) encourage co-location of new and existing tower sites.
- (c) encourage users of towers and antennas to locate them to the extent possible, in areas where the adverse impact on the community is minimal.
- (d) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- (e) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

(2) Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

- (a) "Alternative tower structure" shall mean man-made towers, water towers, buildings, bell steeples, light poles, electric transmission and distribution structures, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- (b) "Antenna" shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies and wireless telecommunications signals,

including but not limited to directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

- (c) "Co-location" shall mean the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.
- (d) "FAA" shall mean the Federal Aviation Administration.
- (e) "FCC" shall mean the Federal Communications Commission.
- (f) "Governing authority" shall mean the governing authority of the Town of Oshkosh (Town Board, Town Planning & Zoning Committee, Town Zoning Administrator).
- (g) "Height" shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- (h) "Personal Communications Service (PCS)" shall mean a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par 332, and as the same may be amended from time to time.
- (i) "Personal Wireless Facilities" shall mean transmitters, antenna structures and other types of installations used to provide personal wireless services.
- (j) "Preexisting towers and antennas" shall have the meaning set forth in Section 3(d) of this ordinance.
- (k) "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
- (l) "Tower Site" shall mean the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

(3) Applicability. No permit is required for the following uses.

- (a) Installing an antenna or tower on any existing structure (such as a tower, building, sign, light pole, water tower, electric transmission and distribution structure, or other free-standing nonresidential structure), and provided the additional antenna or tower adds no more than (20) feet to the height of said existing structure.

- (b) Public Property. Antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this ordinance, provided a license or lease such antenna or tower has been approved by the Governing authority.
- (c) Amateur Radio and Receive-Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (d) Pre-existing Towers and Antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance, other than the requirements of Section 4.c. Any such towers or antennas shall be referred to in this ordinance as "preexisting towers" or "preexisting antennas".

(4) General Provisions.

- (a) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) Aesthetics; Lighting.
 - 1. Towers shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA, be painted a light gray or other neutral color, or as specified by local town requirements, so as to reduce visual obtrusiveness and blend into the natural setting and built environment.
 - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

- (c) Federal Requirements. All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal Government with the authority to regulate towers and antennas.

(5) Conditional Uses.

- (a) Permit. A conditional use permit is required from the Town for the following conditional uses:

1. Antennas. Locating an antenna that adds more than 20 feet to the height of an alternative tower structure, including placement of additional buildings or other supporting equipment used in connection with said antenna, shall be a permitted use in all zoning districts.
2. Towers. Locating a tower, including placement of additional buildings or other supporting equipment used in connection with said tower, shall be a permitted use in the B-3, B-4, B-5, M-1 & M-2 zoning districts. Construction of new towers are prohibited in residential zoning districts.
3. Buildings. Buildings used for the exclusive use of housing antenna and tower equipment shall be no larger than 150 square feet per antenna.

- (b) Prohibited areas. Locating a tower in a residentially zoned area is prohibited.

- (c) Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in zoning districts other than the permitted use zones, shall require a conditional use permit.

(6) Conditional Use Requirements. Applications for conditional use permits shall adhere to the following requirements:

- (a) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.
- (b) Information Required. Each applicant requesting a permit under this ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and scaled by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses,

and other information deemed by the governing authority to be necessary to assess compliance with this ordinance.

(c) **Factors Considered in Granting Permits.** The governing authority shall consider the following factors in determining whether to issue a permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority, concludes that the intent of this ordinance are better served thereby:

1. Height of the proposed tower.
2. Proximity of the tower to residential structures and residential district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of accommodating other users and reducing or eliminating visual obtrusiveness; and
7. Proposed ingress and egress; and
8. Availability of suitable existing towers and other structures as discussed in Chapter 7 of this ordinance.

(d) **Availability of Suitable Existing Towers or Other Structures.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(e) Accommodation of other users (Co-location).

1. Any proposed telecommunication tower and tower site shall be designed, structurally, electrically, and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two additional users, including monopoles which shall be of sufficient height to allow co-location of at least two additional users. Lattice and guyed towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
2. The holder of a permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made access to such tower and tower site economically unfeasible, then the permit for that tower shall become null and void.

(f) Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers and antennas for which a special permit is required, provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the intent of this ordinance would be better served thereby.

1. Towers shall be set back a distance equal to the height of the tower from the property line.
2. Towers, guy wires, and accessory facilities must satisfy the minimum zoning district setback requirements.
3. In zoning districts other than B-3, B-4, B-5, M-1, M-2 zoning districts, towers over ninety (90) feet in height shall not be located within one-quarter of a mile from any existing tower that is over ninety (90) feet in height.

(g) Security Fencing. Towers sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.

(h) Landscaping. The following requirements shall govern the landscaping surrounding towers, however, the governing authority may waive such requirements if the intent of this ordinance would be better served thereby. Tower sites located in the B-4 and B-5 zoning districts shall meet the requirements detailed in those sections.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing.
 2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
 3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 4. All landscaping requirements detailed her shall be properly maintained in perpetuity.
- (7) Removal of Abandoned Antennas and Towers. In such circumstances, the following shall apply:
- (a) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove said antenna and or tower including all supporting equipment, concrete or other base, and any related building(s) within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If removal to the satisfaction of the governing authority does not occur within said ninety (90) days, the governing authority may remove, and salvage said antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
 - (b) Financial Security for Removal. A minimum \$10,000 bond, letter of credit, or other similarly approved financial guarantee shall be filed with the Town of Oshkosh at the time of permit application and shall be maintained until the tower and tower site is removed or at a time that is mutually agreed to by the applicant or owner and the Town of Oshkosh.
 - (c) The applicant for a permit under this ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of 8(a) and 8(b). Said agreement shall also identify that said agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna, and all supporting equipment and building(s).

16-3-28 WIND TURBINES.

On the issue of Wind Turbines, the Town of Oshkosh defers to Wisconsin PSC 128.

16-3-29 OVERLAY DISTRICTS.

The Town of Oshkosh refers to the Winnebago County Zoning Ordinance for the following Overlay districts.

Floodplain
Wetlands
Surface water
Airport

Title 16 – Chapter 4

CONDITIONAL USES

16-4-1 APPLICATION.

Application for conditional use permits shall be made in writing to the Town Board on forms furnished by the Zoning Administrator and shall include the following where applicable:

- (1) Names and addresses of the applicant, owner of the subject site, architect,
- (2) Professional engineer, contractor, and all opposite and abutting property owners of record.
- (3) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district in which the subject site lies.
- (4) Additional information, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future floodwater elevations, areas subject to inundation by floodwaters, depths of inundation, flood-proofing measures, soil types, slope, boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows.
- (5) Public hearing shall follow an application for a conditional use permit. The Town Planning and Zoning Committee shall fix a reasonable time and place for a public hearing, and shall give due notice by a Class 2 Notice according to Chapter 985 of the Wisconsin Statutes, and shall give due notice to all property owners within 300 feet of the subject site. Owners within 300 feet shall be notified by first class mail with an Affidavit of Mailing at least 10 days prior to the hearing.
- (6) Application shall allow appropriate Town staff to enter upon the property for the purpose of placement and removal of a “notice of hearing sign upon the property, viewing the property prior to hearing, and conducting an inspection to determine compliance with the terms and conditions, if any, of the permit or variance granted.
 - (a) For the purposes of this section, the location, and timing of placement and removal of the signs shall be determined by Town staff.
- (7) Fee receipt from the Town Property and Zoning Committee in the amount designated by the Town Board of Supervisors on the most recent fee schedule.

16-4-2 HEARING A NOTICE.

There shall be a public hearing upon any application for a conditional use permit. The Town of Oshkosh Planning and Zoning Committee shall conduct the hearing and shall fix a reasonable time and place. The Town Clerk shall give public notice thereof in accordance with applicable requirements of the Wisconsin Statutes. The Town of Oshkosh Planning and Zoning Committee shall forward their recommendations to the Town of Oshkosh Town Board. Applications may be approved or disapproved by majority vote of the Town Board, with or without conditions.

16-4-3 STANDARDS FOR REVIEW OF APPLICATIONS.

All conditional uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town of Oshkosh. The Planning and Zoning Committee shall review the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation and improvement upon flood damage protections, water quality, shoreland cover, natural beauty and wildlife habitat. The Committee shall forward their recommendations to the Town Board for approval or denial or modifications to the application.

16-4-4 REVIEW AND APPROVAL.

- (1) All Town actions for approval or denial shall be accompanied by appropriate findings of fact. A Town actions received without appropriate findings of fact shall be returned to the applicant with a request that the applicant provide appropriate findings of fact within thirty days.
- (2) Written findings of fact shall, at a minimum, address duly adopted Comprehensive Plans, or plan elements, adopted ordinances if any, compatibility or non-compatibility with adjacent uses, specific substantiated objections (if any), plus any other specific finding deemed appropriate for the matter at hand. All Town findings shall be based upon the evidence within the record in support thereof.
- (3) In those cases where this Ordinance requires a recommendation of a State agency or other planning agency prior to taking final action, the time within which the Town Board may disapprove such a proposed conditional use may be extended until the meeting at which the Town Board finally acts on the application.

- (4) Standards in Reviewing Conditional Uses. In reviewing the proposed conditional uses, the Town Planning and Zoning Committee shall be guided by the following standards and requirements:
- (a) All conditional uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town and its communities.
 - (b) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
 - (c) Conditions, such as landscaping; architectural design; type of construction; construction commencement and completion dates; sureties; lighting; fencing; location, size, and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; floodproofing; ground cover; diversions; silting basins; terraces, stream bank protection; planting screens; operational control; hours of operation; improved traffic circulation; deed restrictions; highway access restrictions; increased yards; or additional parking may be required by the Town of Oshkosh Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance and the State Water Resources Act of 1965, and to meet the provisions of the State's Flood Plain and Shoreland Management Programs.
 - (d) Compliance general provisions and all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in this ordinance and the Town of Oshkosh Stormwater Ordinance.
 - (e) With respect to conditional uses within shore-lands, the standards set forth in Sec. 144.26(5)(a) of the Wisconsin Statutes, in particular as they relate to the avoidance or control of pollution, shall be followed.

16-4-5 DECISION AND EXPIRATION OF USE. *

- (1) The Town Planning and Zoning Committee shall deny, approve or give conditional approval on all applications within forty (40) days of the public hearing. In those cases where conditional approval has been granted, the Committee shall finalize action within ninety (90) days of the public hearing. The Committee shall transmit a signed copy of its decision to the applicant and to the Town Clerk of the Town in

which the subject site is located immediately after its forty (40) day decision and immediately after its ninety (90) day decision, if applicable.

- (2) Conditional uses or temporary uses so granted, shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.
- (3) A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a flood plain or shoreland area shall be transmitted by the County Planning and Zoning Committee to the State Department of Natural Resources.
- (4) Permits previously granted may be revoked for non-compliance in accordance with procedures established in this section.

16-4-6 APPROVAL OF BUILDING, SITE AND OPERATIONAL PLANS. *

- (1) Where Required--**In the case of certain uses, the character of which could have substantial adverse effect upon the surrounding environment and general character of the Town of Oshkosh by reason of the appearance of the structures, arrangement, or use of the land; such uses may be required, as a qualifying condition to their permissibility, to submit for approval of the Town, building, site and operational plans.
- (2) Principal Use not Infringed--Such required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and shall not involve the basic permissibility of the use.
- (3) Criteria--**In determining the acceptability of the building, site or operational plans, the Town shall take into consideration the following factors as well as any others they deem appropriate:
 - (a) The same process of review and approval shall be followed as in Section 17.25 "Conditional Uses" except that a public hearing and Town notification shall not be necessary. However, where agreement relative to approval cannot be reached, the applicant may, by written application, request review and approval by the Town Planning & Zoning Committee.
 - (b) The Town Planning & Zoning Committee shall schedule the matter according to their established schedule. Where the Committee determines that a public hearing is necessary, they shall require the applicant to submit an appropriate application and fee for said hearing.

*Where uses are classified as conditional uses according to Chapter 4; and where uses are also classified as requiring approval of building, site and operational plans (according to Chapter 4); and where said uses under the approval of building, site and operational plans provision require plan and/or permit submittal in conjunction with an agency such

as the Department of Natural Resources, or SWCD; the procedures of Chapter 4 shall control.

******Except under Shoreland, Flood Plain and Conservancy Districts where projects have plans and/or permits approved by the Department of Natural Resources, Army Corps of Engineers, Soil and Water Conservation District, or State District Forester, approvals may be administratively processed by the Zoning Administrator, without Planning and Zoning Committee review--based upon the criteria required by permit and/or plan for any of the aforementioned agencies.

16-4-7 REVOCATION OF PERMIT.

- (1) A Conditional Use Permit issued under this section may be revoked by the Town Planning & Zoning Committee by using the following procedure. The permit may only be revoked for non-compliance with the terms and conditions, if any, by which the original permit was issued.
- (2) A request to revoke a Conditional Use Permit previously granted may be made by staff, by any interested person, or by the Planning & Zoning Committee on its own motion.
 - (a) A request by an interested person shall be made in writing specifying the nature of the complaint, and the factual basis for the request to revoke the permit.
- (3) Procedure.
 - (a) Where the request has been made by an interested person or staff, an initial determination shall be made by staff and presented to the Committee for their consideration. The determination shall specify the terms and/or conditions which are non-compliant, administrative actions taken to attempt compliance, and other factors which may have a bearing on this issue at hand.
 - (b) The Committee shall review the staff determination, and shall either direct that specific additional administrative action be taken, or, shall direct that the holder of the Conditional Use Permit be notified that the Committee intends to take action unless the holder of the permit requests a public hearing on the matter within thirty (30) days of the date of notice herein specified.
 1. A request for hearing under this section must be:
 - (a) within the time specified,
 - (b) be on the application form specified by the Zoning Administrator
 - (c) be accompanied by the appropriate fee as specified for appeals,

- (d) be accompanied by relevant written documentation to support non-revocation of the permit.
2. If no request for hearing has been made as specified, the Committee may proceed to act on the matter. In this instance, no additional testimony shall be allowed.
 3. When a public hearing is scheduled, the same hearing procedures shall be followed as those required for an initial application for permit.
 4. Revocation of the permit shall be solely at the discretion of the Town of Oshkosh Town Board.

Title 16 – Chapter 5

TRAFFIC AND PARKING REGULATIONS

16-5-1 TRAFFIC VISIBILITY.

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of two and one-half (2 1/2) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of thirty (30) feet from their intersection.

In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be fifty (50) feet.

16-5-2 LOADING REQUIREMENTS.

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

16-5-3 PARKING REQUIREMENTS.

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

- (1) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one- and two-family dwellings and a minimum of twenty-four (24) feet for all other uses.
- (2) Each parking space shall be not less than nine (9) feet in width and not less than one hundred eighty (180) square feet in area exclusive of the space required for ingress and egress.
- (3) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use. No parking stall or driveway except in residential districts shall be closer than twenty five (25) feet to a residential district lot line or a street line opposite a residential district.
- (4) All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained.

16-5-4 NUMBER OF PARKING SPACES REQUIRED.

Except in single- and two-family residential districts, curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

(1) Single-Family Dwelling/Mobile Homes:	2 stalls for each dwelling unit
(2) Two-Family and Multi-Family Dwellings:	2 stalls for each dwelling unit
(3) Hotels, Motels, Bed & Breakfast, & Lodging:	1 stall for each guest room, -plus- 2 stalls for each 3 employees
(4) Hospitals, Clubs, Lodges, Lodging and Boarding Houses:	1 stall for each 2 beds, -plus- 1 stall for each 3 employees
(5) Institutions, Rest and Nursing Homes:	1 stall for each 5 beds, -plus- 1 stall for each employee
(6) Medical, Dental Clinics:	3 stalls for each doctor, -plus- 1 stall for each employee
(7) Churches, Theater, Auditoriums, Community Centers, Schools, and other places of Public Assembly:	1 stall for each 5 seats
(8) Restaurants, Bars, Places of Entertainment	1 stall for each 150 square feet of floor area
(9) Repair Shops, and Service Stores, Manufacturing and Processing Plants, Laboratories, and Warehouses:	1 stall for each 2 employees during any 12- hour period
(10) Financial Institutions; governmental and offices, professional floor area:	1 stall for each 300 sq. ft. of business
(11) Funeral Homes:	1 stall for each 150 sq. ft. chapel floor area

- (a) In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.
- (b) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.

16-5-5 DRIVEWAYS.

No direct access shall be permitted to the existing or proposed rights-of-way of:

- (1) Expressways, Freeways, or Interstate Highways.

- (2) Any other Road, Street, or Highway without permission of the authority maintaining the facility.
- (3) Vehicle entrances and exits to drive in theatres, banks, and restaurants,
- (4) Motels, funeral homes, or vehicular sales, service, washing and repair stations.
- (5) Public garages or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.

Title 16 – Chapter 6

MODIFICATIONS

16-6-1 HEIGHTS. *

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modifications shall be in accord with the following:

- (1) Architectural Projections--such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.
- (2) Special Structures--such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smokestacks are exempt from the height limitations of this Ordinance.
- (3) Essential Services--utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- (4) Communication Structures--such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.
- (5) Public or Semi-Public Facilities--such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

16-6-2 YARDS.

- (1) The yard requirements stipulated elsewhere in this ordinance may be modified as follows:
 - (a) Uncovered stairs, landings, loading docks, and fire escapes may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
 - (b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard; but such projection shall not exceed two (2) feet.
 - (c) Accessory uses according to Chapter 2.9 and detached accessory structures are permitted in the rear yard, and buildable area only.

- (d) Off-street parking is permitted in all yards of the business districts, but shall not be closer than thirty (30) feet to any public right-of-way in residential districts.
 - (e) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.
 - (f) Landscaping and vegetation are exempt from the yard requirements of this Ordinance.
 - (g) Yard areas which are not readily identifiable due to irregular lot shape, unique lot location, etc. shall be designated by the Zoning Administrator and all applicable basic district standards shall apply.
 - (h) Entrances for physically disabled persons shall be allowed to utilize a substandard setback where necessitated by unique circumstances of the lot, structure, or individual. Every effort shall be made to conform to the required setbacks as much as practicable.
 - (i) Approval of the reduced setback shall be by administrative review/approval of the Zoning Administrator. Discontinuance of the use as an entranceway shall necessitate removal of the entranceway. No conversion to living area shall be made without a variance granted by the Board of Appeals.
- (2) Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (3) Average Street and Shore Yards. The required street or shore yards may be decreased in any residential or business district to the average of the existing street or shore yards of the like structures of the two abutting parcels on each side, but in no case less than fifteen (15) feet in any residential district and five (5) feet in any business district for street yards and no less than fifty (50) feet for shore yards.
- (4) Noise. Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Ordinance.

16-6-3 EXISTING DEVELOPMENT DISTRICT. (Floating)

- (1) Statement of Intent. This district is intended to provide for an adjustment of lot size, yard and access requirements Chapter 2.7 in those districts where existing or surrounding development, though compatible in character to the basic zoning district, does not meet one or more of the basic district standards.
- (2) Principal Uses. (According to underlying district).
- (3) Basic District Standards.

- (a) A principal structure and its accessory structures may be erected on any vacant, legal lot or parcel which was on record in the County Register of Deeds Office before the effective date or amendment of this Ordinance. Also, a principal structure may be extended, altered or converted and its accessory structures may be erected when the existing structure was built in compliance with any permit requirements in effect before the effective date or amendment of this Ordinance and where the principal structure was located on the lot in compliance with those zoning regulations which were applicable at the time of its construction and provided any addition does not add to, or extend, the nonconforming setbacks
- (b) In each existing case, all the district requirements shall be complied with insofar as practical, but shall not be less than the following (except as may be provided in Sec. 17.27):
 - 1. Lot.
 - a. Width--Minimum--None.
 - b. Area--Minimum--None.
 - 2. Building.
 - a. Height--Maximum--According to underlying district.
 - 3. Yards.
 - a. Street (Vacant)--Minimum--30 ft. The second street yard on corner lots shall be not less than fifteen (15) ft.
 - b. Street (Built)--Minimum--According to prior zoning standards.
 - c. Rear--Minimum--25 ft.
 - d. Side--Minimum--Total shall be 26% of the lot width, with no one (1) yard less than five (5) ft. except in floodplain, side yard setbacks shall be a minimum of 7' on one side and 10' on the other.
 - e. Shore--Minimum--75 ft.
- (c) Structures located within B-4 Business Parks, M-1 Light Industrial and M-2 Heavy Industrial Districts having any frontage on railroad right-of-way or property shall be allowed a zero (0) setback on that frontage. Accessory structures in all zoning districts shall be allowed zero (0) setback on railroad right-of-way or property frontage.
- (d) Accessory structures in all zoning districts having any frontage on a railroad right of way or property shall be allowed a zero setback on that frontage.

Title 16 – Chapter 7

SIGNS

16-7-1 INTENT.

- (1) The intent of this Section is to provide minimum standards to safeguard life, health, property, and public welfare by regulating and controlling the quality of materials, appearance and construction, illumination, installation and maintenance of all signs and sign structures.
- (2) This Ordinance shall cover all signs in use, planned or hereafter installed with the Town of Oshkosh.

16-7-2 PURPOSE.

The purpose of this chapter is to protect the public health, safety and general welfare by:

- (1) Promoting well maintained and attractive signage with the Town;
- (2) Providing for adequate business identification, advertising, and communication; and
- (3) Protecting the safety and efficiency of the Town's transportation network by reducing confusion or distractions to motorists and enhancing motorists' ability to use pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing a proliferation of messages for the motorist.

16-7-3 PERMIT REQUIRED.

No projecting, or free-standing sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs accepted in Chapter 7.4 and without being in conformity with the provisions of this Ordinance. Unless otherwise specified, the basic district standards shall apply for setback and height standards.

16-7-4 SIGNS ACCEPTED.

All signs are prohibited in all residential, agricultural, and public and semi-public districts except as follows:

- (1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration, only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.

- (2) Real estate signs which advertise the sale, rental or lease of the premises, and political campaign signs when they are temporarily located
- (3) Name, occupation and warning signs not to exceed two (2) square feet located on the premises.
- (4) Bulletin boards and identification signs for public, charitable or religious institutions, apartments, planned residential developments and subdivisions and model homes, in residential districts, provided they:
 - (a) do not exceed 32 sq. ft. in area except model homes not to exceed 16 sq. ft. in area.
 - (b) are located a minimum of 10 ft. from the right-of-way.
 - (c) conform to the other yard requirements of the basic district.
 - (d) do not exceed in height ten (10) feet above the crown of the road.
 - (e) meet distance requirements of free standing business signs.
 - (f) are limited to the number of signs specified for on-premise business signs.
- (5) Memorial signs, tablets, names of buildings, and date of erection when cut into masonry surface or when constructed affixed flat against a structure.
- (6) Official signs (Municipal), such as traffic control, parking restrictions, information and notices.
- (7) Temporary signs or banners when authorized by the Board of Appeals.
- (8) Farm names and identification signs in all agricultural districts.
- (9) Signs in existence before the adoption of this ordinance which have been damaged or destroyed by vandalism or other malicious acts.

16-7-5 BUSINESS SIGNS PERMITTED (ON-PREMISES).

- (1) Business signs are permitted in all business, industrial and public and semi-public districts.
- (2) Temporary and mobile mounted signs are permitted in the B-2 & B-3 Business Districts and all industrial districts.
- (3) Business signs clearance standards:

(a) Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley.

(b) Free-standing signs.

1. Located above a walkway or driving area shall not be less than ten (10) feet above a walkway nor less than fifteen (15) feet above a driveway or an alley.
2. Located within 100 feet centerline of the intersection of two streets that are located on the same side of the street as the property where a permit has been requested: the bottom of the sign shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.
3. Located within 30' of a driveway centerline and road right-of-way the bottom of the sign shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.

(4) Business Sign Standards.

(a) Street--Minimum--10 ft. Unless otherwise specified in Conditional Use Approval.

(b) All Other District Yards--Minimum--Same as basic district, unless otherwise specified in Conditional Use Approval.

(c) Size--Area--Minimum--None--Maximum—All faces combined, per side, shall not exceed 100 square feet. Signs designed to have more than two sides shall reduce the overall area of all sides combined to not exceed 200 square feet total, with no one side exceeding 100 square feet, all faces combined. Size may be increased to 150 square feet, per side, all faces combined, for a corner lot if the owner agrees to limit the number of signs to one (1).

(d) Height--Maximum--35 ft. above crown of road.

(5) Where property abuts more than one street, one sign per street side is allowed.

16-7-6 OFF-PREMISES SIGNS.

(1) Advertising Signs Permitted. Advertising signs are permitted in the B-2 & B-3 Business Districts and all industrial districts subject to the following:

(a) Standards.

1. Street -- Minimum -- 10 ft., unless otherwise specified in Conditional Use Approval.
2. All other District Yards--Minimum--Same as basic district, unless otherwise specified in Conditional Use Approval.
3. Size--Area--Maximum--32 sq. ft. per side, including all faces combined.
4. Height--Maximum--25 ft. above existing grade or grade of existing structure at the time of permit approval.

(2) Direction Signs Permitted. Directional signs are permitted in B-1 and B-2 Business Districts subject to the following:

(a) Standards.

1. Size--Area--Maximum--32 sq. ft. per side, including all faces combined.
2. Height--Maximum--25 ft. above existing grade of existing structure at the time of permit approval.
3. Yards.
 - a. Street--Minimum--3 ft.
 - b. Side--Minimum--3 ft.

(b) Number--no more than four (4) for any single business or organization.

(3) Advertising and Direction Signs. Clearance standards:

(a) Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley.

(b) Free-standing signs.

(4) Located above a walkway or driving area: shall not be less than ten (10) feet above a walkway nor less than fifteen (15) feet above a driveway or an alley.

(5) Located within 100 feet of an intersection of a driveway or roadway: shall not be less than ten (10) feet above existing grade or grade of existing structure at the time of permit approval.

(6) Vehicle Signage. Non-registered vehicles, including semi-trailers, campers, buses, automobiles, and other like vehicles, shall not be parked on private property or a public right-of-way so as to be seen from a public right-of-way, which has attached

thereto or located thereon any sign or advertising device for the basic purpose of providing advertising of products or directing people to a business activity located off-premises.

16-7-7 NON-CONFORMING SIGNS.

Signs existing at the time of adoption of this ordinance which do not conform to the provisions of this ordinance shall become nonconforming. As such, these signs shall adhere to the nonconforming provisions of Chapter 4 of this ordinance and to the following:

- (1) Two or more signs located closer than the distance standards indicated in this ordinance shall become nonconforming for the purposes of this section, regardless of which sign was erected first and regardless of whether the nearest sign measured from is located within or outside of Town zoning jurisdiction.

16-7-8 INFORMATIONAL SIGNS.

Informational signs are allowed without permit as an accessory use to all parking areas, and in all business, industrial, and public district subject to the following:

(1) Standards

- (a) Size-Area-Maximum--4 sq. ft.
- (b) Number--Maximum--1 sign per each entrance and exit. Additional signs may be placed on the property as needed for the operation of the business.
- (c) Yard--All-Minimum--projection must be within property lines.
- (d) Height--Maximum--7 ft. above crown of road.

16-7-9 FACING.

No business, advertising, or directional sign, except those permitted in Sec. 7.3, shall be permitted to face a residential or public and semi-public district within fifty (50) feet of such district boundary.

16-7-10 SHAPE AND ILLUMINATION.

Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, driveway, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. Externally illuminated signs shall be lighted by white light only, no sign shall flash, oscillate, or rotate, except public service time and

temperature signs. However, in all cases externally illuminated signs shall be shaded, shielded, or directed from surrounding properties and vehicular traffic.

16-7-11 DILAPIDATED, UNMAINTAINED AND ABANDONED SIGNS.

- (1) Dilapidated and Unmaintained Signs. Signs allowed by this ordinance shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning and other acts required for proper maintenance of the sign. Signs that are determined by the Town to be dilapidated, unmaintained and/or unsafe shall be subject to the razing provisions of Section 66.05, Wis. Stats.
- (2) Abandoned Signs shall be removed by the owner or lessee of the premises, when, for a business sign, the business it advertises is no longer conducted; and for an advertising or directional sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Town shall give the owner sixty (60) days written notice to remove said sign. Upon failure to comply with this notice, the Town may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.

16-7-12 DISTANCE STANDARDS.

- (1) No advertising or directional sign shall be located closer than 1,320' to any other advertising or directional sign regardless of municipal boundaries, street classification, topography, etc.
- (2) Business signs shall be allowed at a distance of one business sign per lot of record, except that where a multiple frontage lot occurs, each frontage shall be allowed one business sign.

Height	Street	Maximum	10 ft. above existing grade at the time of approval
Signs Over Driveways or Alleys		Maximum	18 ft. above existing driveway grade at the time of approval.
Yards	Street	Minimum	10 ft.
Setbacks	Side	Minimum	10 ft.
Number Spacing	Not to exceed four (4) for any single parcel. 200 ft. apart		

16-7-13 PARKING SIGNS.

Parking area signs are permitted as an accessory use to all parking areas in all business, industrial and institutional/recreational districts, subject to the following standards:

Size	Area	Maximum	4 sq. ft.
Number		Maximum	1 sign per entrance and exit
Yard/ Setback	All	Minimum	10 ft.
Height	--	Maximum	7 ft. above existing grade

Title 16 – Chapter 8

NONCONFORMITIES

CHAPTER 8: NONCONFORMING USES, STRUCTURES AND LOTS (NON-SHORELAND AREAS) (Chapter 8 reference Winnebago County Chapter 23. Article 13 Nonconformities)

16-8-1 LEGISLATIVE FINDINGS.

The Town of Oshkosh Town Board makes the following legislative findings:

- (1) There may exist lots, structures, and uses in the unincorporated area of the Town that were lawfully established but that do not now comply with one or more provisions of the district in which they are located.
- (2) It is reasonable to generally allow, but not encourage, nonconforming uses to continue until such time as they are removed or discontinued.
- (3) A nonconformity that is removed, discontinued, changed, extended, or enlarged shall be made to conform with the regulations that apply to the district in which it is located.
- (4) State law permits the reconstruction of nonconforming structures under certain circumstances.
- (5) There is a substantial public benefit of reducing the number of existing off-premise billboards that exceed the size limitations established in this chapter.

16-8-2 OFFICIAL REGISTRY OF NONCONFORMING LOTS, STRUCTURES, SIGNS, AND USES.

RESERVED

16-8-3 NONCONFORMING LOTS.

- (1) Generally. A nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.
- (2) Alteration of property boundary lines. The location of a property boundary line of a nonconforming lot shall not be moved, except when the adjoining lot being made smaller and development on such lot comply with all dimensional requirements of the

district in which it is located and the new property boundary line location will make the nonconforming lot to be conforming or lessen the nonconformity.

16-8-4 NONCONFORMING STRUCTURES.

- (1) Reconstruction. A nonconforming structure containing a conforming use may be rebuilt, in whole or in part, if the reconstructed structure is not located on more than one parcel and is identical in all respects to its size, shape, height, and footprint at the time of reconstruction. Prior to the issuance of a zoning permit, the applicant shall provide a survey, conducted by a licensed land surveyor, verifying all setbacks of the existing non-conforming structure, as well as the structure's footprint and square footage.
- (2) Enlargement. A nonconforming structure shall not be enlarged or altered, except as permitted in this subsection. In those instances where a nonconforming structure is used for residential purposes, the structure may be enlarged provided the portion of the structure being added complies with all applicable dimensional standards, including setback and building height standards.
- (3) Reconstruction following damage. A nonconforming structure that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (size, location, and use) to the damage, except the structure may be larger when necessary to comply with state or federal requirements.¹
- (4) Unsafe conditions, ordinary maintenance, and remodeling. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling provided that the work conforms to the provisions in this chapter.

16-8-5 NONCONFORMING USES.

- (1) Generally. A nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.
- (2) Cessation of use. If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not be reestablished.² A business of a seasonal nature shall not be deemed discontinued during periods which it is normally inactive (i.e., marinas, ski hills, campgrounds). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process

¹ Commentary: See s. 59.69(10m), Wis. Stats.

² Commentary: See s. 59.69(10)(a), Wis. Stats.

established under division 7 of article 7. However, if a temporary structure houses a nonconforming use, such use shall terminate upon cessation of such use.³

- (3) Change in extent. Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- (4) Limitation on structural alterations. Structural alterations to a structure housing a nonconforming use shall not exceed, on an accumulative percentage basis, 50 percent of the equalized assessed value of such structure. For example, if a property owner makes structural alterations, the cost of which equals 40 percent of the current equalized assessed value of the structure, additional structural alterations are limited to 10 percent of the equalized assessed value at the time of the work.
- (5) Damage to structure housing nonconforming use. If a structure housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such use shall not be reestablished.
- (6) Change of location. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- (7) Casual, occasional, accessory, or incidental use. Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use.⁴
- (8) Change of production. A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.⁵
- (9) Nonconforming use as a public nuisance. A nonconforming use, regardless of its duration, may be prohibited or restricted if it constitutes a public nuisance or is harmful to the public health, safety, or welfare.⁶
- (10) Unsafe conditions. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.
- (11) Licensing. The operator of a nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; or the Town in which the use is located, and maintain such licenses for the life of the use or until the entity no longer requires such license.

³ Commentary: See s. 59.69(10)(a), Wis. Stats.

⁴ Commentary: See *Village of Menominee Falls v. Veirstahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

⁵ Commentary: See *Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

⁶ Commentary: See *Town of Delafield v. Sharpley*, 212 Wis. 2d 332, 568 N.W.2d 779 (Ct. App. 1997, 96-2458)

16-8-6 NONCONFORMING CONDITIONAL USES.

- (1) Generally. Subject to the requirements in division 5 of article 7, except as modified in this section, a nonconforming use may be determined to be a conditional use.
- (2) Special review criteria. In addition to the review criteria in division 5 of article 7, the town board and town plan commission of the town in which the nonconforming use is located in making their recommendation and the Planning and Zoning Committee in making its decision shall make the following determinations:
 - (a) The nonconforming use will not be adverse to the public health, safety, or welfare.
 - (b) The nonconforming use is in keeping with the spirit and intent of this chapter.
 - (c) The nonconforming use would not be otherwise detrimental to the area and in particular the surrounding properties.
- (3) Expansion and change in a nonconforming conditional use. If a nonconforming use is approved as a conditional use, it is not subject to the restrictions contained in this article. Any proposed expansion or change in a nonconforming conditional use shall be reviewed as an amendment to the initial approval.

16-8-7 SPECIAL PROVISIONS FOR NONCONFORMING BOATHOUSES.

The ordinary maintenance and repair of a nonconforming boathouse which extends beyond the ordinary high-water mark shall comply with s. 30.121, Wis. Stats.

16-8-8 SPECIAL PROVISIONS FOR NONCONFORMING SIGNS.

- (1) Changes to copy. The copy of a nonconforming sign may be changed.
- (2) Off-premise sign. A nonconforming off-premise sign that exceeds the maximum sign area allowed in this chapter and that has a static message display shall not be converted, in whole or in part, to an electronic message display, unless the sign owner agrees to remove 5 existing nonconforming off-premise signs in the Town of Oshkosh that exceed the maximum sign area provided (1) the sign area of the sign to be removed is at least 80 percent of the area of the sign to be converted, (2) the sign to be removed is located within 3-miles of the sign to be converted, (3) the sign to be removed is completely removed before work commences on the sign to be

converted, and (4) the site of the removed sign is restored to the satisfaction of the zoning administrator.

16-8-9 SPECIAL PROVISIONS FOR NONCONFORMING OUTDOOR SHOOTING RANGES.

An outdoor shooting range that is a nonconforming use in the zoning district in which it is located may be expanded only if the Town Board determines that such expansion would not impact public health or safety.⁷

16-8-10 SPECIAL PROVISIONS FOR NONCONFORMING MOBILE HOMES AND MANUFACTURED HOMES.

Any mobile home on a lot of record that is not located in the R-8 zoning district may be replaced with a manufactured home. Any manufactured home on a lot of record that is not located in the R-8 zoning district may be replaced with a manufactured home.

⁷ Commentary: See s. 66.0409(4)(c), Wis. Stats.

Title 16 – Chapter 9

PERFORMANCE STANDARDS

16-9-1 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 district. All structures, land, air and waters shall hereafter, in addition to their use, site, sanitary, floodland, and shoreland regulations, comply with the following performance standards:

- (1) Water quality protection. No residential, commercial, industrial or recreational use shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate, or wash or be harmful to human, animal, plant or aquatic life. This section shall not apply to uses other than those enumerated in it.
 - (a) No person shall throw any glass, cans, rubbish, water or filth (hereinafter referred to as “Waste”) upon the streets, ditches, culverts, sidewalks, public parks or other public Town property (thereafter referred to as “Public Property”) or upon any private property not owned by said person or upon the surface of any body of water, or watercourse, within the Town.
 - (b) No person shall cause grass, leaves or any form of yard waste (hereafter referred to as “Yard Waste”) to enter upon Public Property or upon any private property not owned by said person or upon the surface of any body of water within the Town. Naturally wind-borne Yard Waste shall be excluded from this prohibition.
 - (c) No person shall operate, park or store a motor vehicle so as to cause mud, dirt, stones or vehicle fluids or lubricants (hereinafter referred to as “Debris”) to become deposited upon Public Property or upon any private property not owned by said person or upon the surface of any body of water within the Town.
 - (d) No person shall discharge chemically treated swimming pool discharge onto public property or adjoining private properties. For the purposes of this section, swimming pool water shall be considered chemically treated for three days following the addition of any chemicals to the water.
 - (e) No person, firm or corporation shall place garbage cans, garbage bags or other trash receptacles along any Town road, provided that this subsection shall not apply to the placement of such receptacles within 36 hours of any regularly

scheduled time for garbage removal. Every day during which such receptacles are permitted to remain shall constitute a separate offense.

- (f) Animal Waste. It is unlawful for any person who owns or has custody of a dog, cat or other pet to cause or permit such animal to defecate on any public property or any private property without the consent of the property owner, unless such person immediately removes the excrement and places it in a proper receptacle. This ordinance shall not apply to Service Animals while assisting and under control of an individual or to police dogs while engaged in police activity.
- (g) Any person violating Paragraphs 9.1(1)(a) through (f) above shall be responsible to clean or remove the Waste, Yard Waste or Debris from Public Property or upon any private property not owned by said person or upon the surface of any body of water within the Town. If such person fails to do so within a reasonable time frame, the Town shall remove the waste and charge the violating party for the removal effort.

Title 16 – Chapter 10

CHANGES AND AMENDMENTS

16-10-1 AUTHORITY.

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may adopt by Ordinance, changes in the district boundaries, and may amend, change or supplement the regulations established by this Ordinance or amendments thereto. All such changes or amendments shall be adopted according to the procedures established under Section 62.23 (7) of the Wisconsin Statutes, upon review and recommendation by the Town of Oshkosh Planning and Zoning Committee.

16-10-2 PROTEST.

In case of a protest against any such change or amendment, duly signed and acknowledged by the owners of 20% or more either of the areas of land included in such proposed change or amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Town Board voting on the proposed change or amendment.

16-10-3 STANDARDS FOR REZONING IN A-1 AGRI-BUSINESS DISTRICT.

In accordance with Wisconsin Statutes 91.77 (1) and (3), decisions on petitions for rezoning areas zoned A-1 "Agri-Business District" shall be based on findings which consider the following:

- (1) Adequate public facilities to serve the development are present or will be provided;
- (2) Provision of these facilities will not be an unreasonable burden to local government;
- (3) The land is suitable for development, and
- (4) Development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.

16-10-4 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.

Title 16 – Chapter 11

ILLICIT DISCHARGE AND CONNECTION ORDINANCE

The Town of Oshkosh refers to the separate Town of Oshkosh Stormwater Ordinance for coverage of these items. Refer to: Title 8, Chapter 7.

Title 16 – Chapter 12

VIOLATIONS, ENFORCEMENT, AND PENALTIES

16-12-1 VIOLATIONS.

- (1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
- (2) In the event the violation constitutes an immediate danger to public health or public safety, the Town Board is authorized to enter upon the subject private property, without giving prior notice, to take any and all measure necessary to abate the violation. The Town Board is authorized to seek costs of the abatement.

16-12-2 WARNING NOTICE.

- (1) When the Town Board finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town Board may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Town Board to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

16-12-3 NOTICE OF VIOLATION.

- (1) Whenever the Town Board finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town Board may order compliance by written notice of violation to the responsible person.
- (2) The Notice of Violation shall contain:
 - (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (f) A statement that the determination of violation may be appealed to the Town Board by filing a written notice of appeal within 3 days of service of notice of violation, and
- (g) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

(3) Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting.
- (b) The elimination of illicit connections or discharges.
- (c) That violating discharges, practices, or operations shall cease and desist.
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property.
- (e) Payment of a fine to cover administrative and remediation costs, and
- (f) The implementation of BMPs.

16-12-4 SUSPENSION OF MS4 ACCESS.

(1) Emergency Cease and Desist Orders.

- (a) When the Town Board finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or water of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town Board may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all ordinance requirements, and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(b) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town Board may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Town Board may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town Board that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town Board within 5 days of receipt of the prerequisite for, taking any other action against the violator.

(2) Suspension due to Illicit Discharges in Emergency Situations.

(a) The Town Board may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Town Board may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(3) Suspension due to the Detection of Illicit Discharge.

(a) Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town Board will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town Board for a reconsideration and hearing.

(b) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town board.

(4) Prosecution and Penalties.

- (a) Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violation described therein within the set time period specified by the Town Board, after the Town Board has taken one or more of the actions described above, the Town Board may impose a penalty of not less than \$100 nor more than \$500 for each day the violation remains un-remedied after receipt of the notice of violation.

16-12-5 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Town Board. The notice of appeal must be received by the Town Clerk within 3 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal.

16-12-6 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected, pursuant to the requirements set forth in the Notice of Violation or, in the event of an appeal, the municipal authority upheld the decision of the Town, then representatives of the Town Board are authorized to enter upon the subject private property and authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

16-12-7 COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

16-12-8 VIOLATIONS DEEMED A PUBLIC NUISANCE.

Any condition in violation of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

16-12-9 REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town Board to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Title 16 – Chapter 13

BOARD OF APPEALS

16-13-1 ESTABLISHMENT.

A Board of Appeals is established for the purposes of hearing appeals from actions of the Zoning Administrator or the Town Board and applications for variances from and exceptions to provisions of this Ordinance, and deciding the same.

16-13-2 MEMBERSHIP.

The Board of Appeals shall consist of 5 members and two alternates appointed by the Town Chairman, subject to confirmation by the Town Board, Wisconsin Statutes Sec. 62.23(7)(e)(2). All members must reside within the Town of Oshkosh. Board of appeals members shall serve staggered 3-year terms. The members of the Board shall serve at such compensation to be fixed by ordinance or, in the absence of such ordinance, shall be reimbursed their actual and reasonable expenses. They shall be removable by the Town Chairman for cause upon written charges and after public hearing. The Town Chairman shall designate one member chairman. The Board may employ a secretary. Vacancies shall be filled for the un-expired terms of members whose terms become vacant. The Town Chairman may appoint one alternate member, who shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent.

16-13-3 ORGANIZATION.

The Board of Appeals shall adopt rules in accordance with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such other times as the board may determine. The chairman, or acting chairman if there be one, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public and a record of all proceedings shall be kept, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions. All records immediately shall be filed in the office of the Board and shall be public.

16-13-4 APPEALS.

Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the Town of Oshkosh affected by any decision of any administrative officer of the Town. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer

from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken forthwith shall transmit to the Board all the papers constituting the record upon which the action was taken from which appeal is made.

16-13-5 AUTOMATIC STAY.

An appeal shall stay all legal proceedings in furtherance of the action from which appeal is made, unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the Certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of record on application, with notice to the officer from whom appeal is made, and on due cause shown.

16-13-6 HEARINGS.

The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it. Public notice shall be given of all hearings. Due notice of a hearing also shall be given to the parties in interest. Upon the hearing any party may appear in person or by agent or attorney. The Board shall decide each matter within a reasonable time after its hearing.

16-13-7 POWERS.

The Board shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
- (2) To hear and decide special exceptions to the terms of this Ordinance and to grant such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provision 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. Use variances shall not be granted by the Board of Appeals.
- (3) To hear and decide applications for interpretations of zoning regulations and zoning districts boundaries established under this Ordinance.
- (4) To hear and decide applications for substitution of more restrictive non-conforming uses for existing non-conforming uses where no structural alterations are to be made.
- (5) To hear and decide applications for unclassified and unspecified uses; provided, however, that such uses shall be similar in character to the principal uses

permitted in the district and the Town of Oshkosh Planning and Zoning Committee shall have made a review and recommendation on the application.

- (6) To hear and decide applications for temporary uses which do not involve the erection of a substantial structure and are compatible with neighboring uses; provided, however, that the Town of Oshkosh Planning and Zoning Committee shall have made a review and recommendation on the application; and further provided that a temporary use permit shall be revocable, subject to conditions established by the Board, and shall be issued for a period not in excess of one year.
- (7) In exercising its powers the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have the powers of the officer from whom appeal is taken, and may issue or direct the issue of permits.

16-13-8 DECISIONS.

The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of any applicant, or to effect any variation in this Ordinance. The grounds of every such determination shall be stated in writing. Variances, substitutions and use permits shall expire within 18 months of their grant unless substantial work under them has been commended. A decision shall be made within 30 days after the final hearing on the matter of the hearing.

16-13-9 APPEAL OF DECISIONS.

Any person aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer of the Town of Oshkosh may present to a Court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

16-13-10 ADOPTION OF ORDINANCE

This ordinance shall take effect the day after its publication pursuant as required by law. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.