

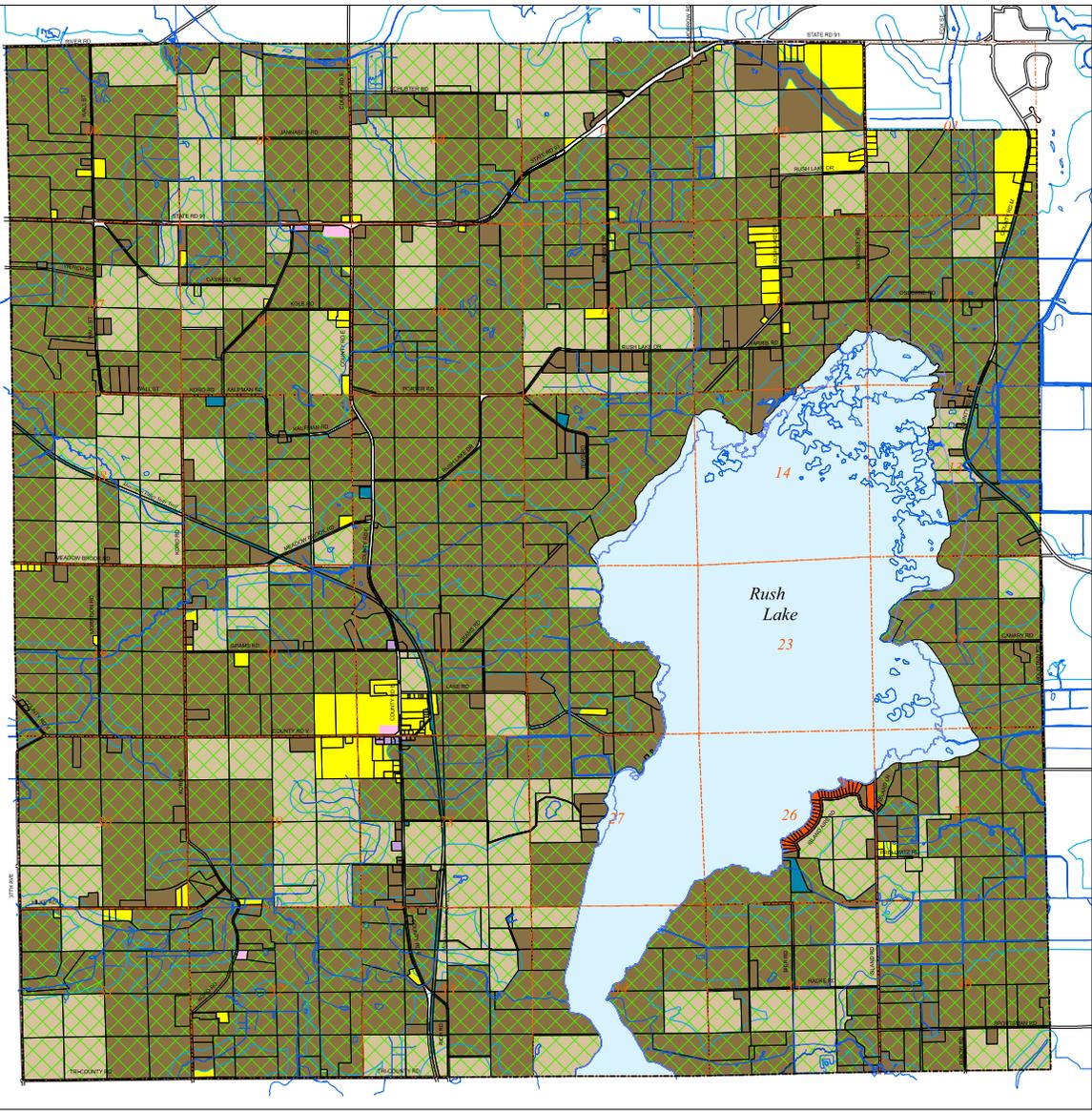
### Farmland Preservation Zoning Map

#### Zoning Districts

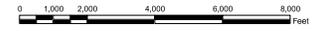
- A-1 Farmland Preservation
- A-2 Agricultural
- C-1 Existing Commercial
- C-2 Community Commercial
- PLI Public Lands Institutional
- R-1 Residential
- R-2 Shoreland Residential
- FPO Farm Preservation Overlay
- County Shoreland Zoning Area

#### Map Features

- Municipal Boundary
- Section Lines
- Parcel Lines
- Right of Way Lines
- Waterways
- Open Water



Scale 1" = 2,000'



This base map was created by Winnebago County, who expressly disclaims all liability regarding fitness of use of the information. The user is responsible for understanding the accuracy limitations of the data provided herein.

**Martenson & Eisele, Inc.**  
1377 Midway Road Planning  
Manasha, WI 54952 Environmental  
www.martenson-eisele.com Surveying  
info@martenson-eisele.com Engineering  
920.731.0361 1.800.236.0361 Architecture  
argst0328001gls.mxd\_12/02/2021

---

# MUNICIPAL CODE

**Town of Nepeuskun**  
**Winnebago County, Wisconsin**

**Issued to:** \_\_\_\_\_

**Date Issued:** \_\_\_\_\_

---

**Index**

<b>Chapter</b>	<b>Description</b>	
<b>1</b>	<b>General Provisions</b>	
1.1	Title.....	1-1
1.2	Abrogation and Greater Restriction .....	1-1
1.3	Severability .....	1-1
1.4	Inconsistencies .....	1-1
1.5	Delegation of Authority .....	1-1
1.6	Responsibility for Interpretation .....	1-1
1.7	Graphics, Illustrations, Headings, References, and Statutory Citations.....	1-1
1.8	General Rules of Interpretation.....	1-1
1.9	Computation of Time .....	1-2
1.10	Amendments .....	1-2
1.11	Citations and Penalties .....	1-2
1.12	Documents Incorporated by Reference .....	1-2
1.13	Code Organization and Numbering .....	1-2
1.14	Definitions.....	1-3
1.15	Annual Fee Schedule .....	1-3
1.16	History of Adoption and Amendments .....	1-3
<b>2</b>	<b>Recycling Ordinance</b>	
2.1	Title.....	2-1
2.2	Purpose .....	2-1
2.3	Statutory Authority .....	2-1
2.4	Reserved .....	2-1
2.5	Interpretation .....	2-1
2.6	Severability .....	2-1
2.7	Applicability.....	2-1
2.8	Effective Date .....	2-1
2.9	Effective Date .....	2-1
2.10	Definitions.....	2-1
2.11	Separation of Recyclable Materials .....	2-2
2.12	Separation Requirements Exempted.....	2-3
2.13	Care of Separated Recyclable Materials .....	2-3
2.14	Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste .....	2-3
2.15	Preparation and Collection of Recyclable Materials .....	2-3
2.16	Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.....	2-4
2.17	Responsibilities of Owners or Designated Agents of Non-residential Facilities and Properties .....	2-4
2.18	Prohibitions on Disposal of Recyclable Materials Separated for Recycling .....	2-4
2.19	Enforcement .....	2-4
2.20	Penalties.....	2-5
2.21	History of Adoption and Amendment.....	2-5
<b>3</b>	<b>Small Pet Regulation</b>	
3.1	Purpose .....	3-1
3.2	Generally .....	3-1
3.3	Definition .....	3-1
3.4	Enforcement .....	3-1
3.5	Adoption by Reference .....	3-1
3.6	Amount of Penalties .....	3-1
3.7	Collection of Forfeitures and Penalties .....	3-1
3.8	History of Adoption and Amendment .....	3-2
<b>4</b>	<b>Zoning Permit</b>	
4.1	Purpose .....	4-1
4.2	Zoning Permit Required .....	4-1
4.3	Application and Review Procedure .....	4-1
4.4	Expiration of Approval .....	4-1
4.5	Review Criteria .....	4-1
4.6	Limitations .....	4-1
4.7	Compliance with County Storm and Water and Erosion Control Requirements .....	4-1
4.8	Certificate of Compliance .....	4-1

4.9	Compliance with Ordinances .....	4-2
4.10	Plans .....	4-2
4.11	Application .....	4-2
4.12	Fees .....	4-2
4.13	Exceptions .....	4-2
4.14	Authority to Halt Construction .....	4-2
4.15	Amount of Penalties .....	4-2
4.16	History of Adoption and Amendment .....	4-2
<b>5</b>	<b>Town Zoning Code Index .....</b>	<b>5-1</b>
Article 1 General Provisions		
5.1.1	Title .....	5-2
5.1.2	Authority .....	5-2
5.1.3	General Purpose .....	5-2
5.1.4	Compliance .....	5-2
5.1.5	Burden of Proof .....	5-2
5.1.6	No Defense to Nuisance Action .....	5-2
5.1.7	Abrogation and Greater Restrictions .....	5-2
5.1.8	Zoning District Map .....	5-2
5.1.9	Enforcement .....	5-2
5.1.10	Penalties .....	5-3
5.1.11	History of Adoption and Amendment .....	5-3
Article 2 Construction, Interpretation, and Definitions		
5.2.1	General Rule of Construction .....	5-4
5.2.2	Responsibility for Interpretation .....	5-4
5.2.3	Definitions .....	5-4
Article 3 Administrative Functions		
5.3.1	Zoning Administrator .....	5-7
5.3.2	Responsibilities and rights of Zoning Administrator .....	5-7
Article 4 Zoning Districts		
5.4.1	Districts .....	5-8
5.4.2	Purpose and Intent of Districts .....	5-8
5.4.3	Land Use within Districts .....	5-9
5.4.4	Community and Other Living Arrangements .....	5-11
5.4.5	Land Use Definitions .....	5-11
5.4.6	Dimensional Standards within Districts .....	5-19
Article 5 A-2 District Supplemental Regulations		
5.5.1	Density Standards in A-2 district .....	5-20
5.5.2	Lot Layout Guidelines .....	5-20
Article 6 R-1 District Supplemental Regulations		
5.6.1	Open Space Requirements .....	5-21
5.6.2	Conditional Uses in the Common Open Space .....	5-21
5.6.3	Design Standards for Common Open Space .....	5-21
5.6.4	Ownership and Maintenance of Common Open Space .....	5-22
Article 7 A-1 Farmland Preservation Regulations (See Chapter 14-Farmland Preservation Ordinance .....		
		5-24
Article 8 Application Process for Conditional Uses		
5.8.1	Generally .....	5-25
5.8.2	Application and Review Procedure .....	5-25
5.8.3	Imposition of Conditions .....	5-25
5.8.4	Expiration of Approval .....	5-26
5.8.5	Revocation .....	5-26
5.8.6	Limitations .....	5-26
5.8.7	Review Criteria .....	5-26
5.8.8	Special Requirements for Aggregate and Soil Extraction Operation .....	5-26
5.8.9	Special Requirements for Intensive Animal Production .....	5-26

Article 9 Site Plan Review		
5.9.1	Generally.....	5-29
5.9.2	Establishment and Purpose .....	5-29
5.9.3	Compliance .....	5-29
5.9.4	Application and Review Procedure.....	5-29
5.9.5	Site Plan Review Principles and Standards .....	5-29
Article 10 Development and Use Standards		
5.10.1	Building Grade .....	5-30
5.10.2	Roads.....	5-30
5.10.3	Driveways.....	5-30
5.10.4	Common Driveways .....	5-30
5.10.5	The Residential Building Site in any District.....	5-30
5.10.6	Residential Design Principles in any District .....	5-30
5.10.7	Residential .....	5-31
5.10.8	Fences .....	5-31
5.10.9	Farm Animals .....	5-31
5.10.10	Outdoor Lighting – Non-Commercial.....	5-32
5.10.11	Outdoor Lighting – Commercial.....	5-32
5.10.12	Private Ponds.....	5-32
5.10.13	Campgrounds.....	5-33
5.10.14	Manufactured Homes Anchoring.....	5-33
5.10.15	Home Occupation, Type I.....	5-33
5.10.16	Home Occupation, Type II.....	5-33
5.10.17	Home Occupation, Type III – Cottage Industry .....	5-34
5.10.18	Home Occupation, Type IV .....	5-34
5.10.19	Manufactured Home Park .....	5-34
5.10.20	Cemeteries .....	5-35
5.10.21	Accessory Uses .....	5-36
5.10.22	Farm Buildings .....	5-36
Article 11 Nonconforming Uses, Structures, and Lots		
5.11.1	Generally.....	5-37
5.11.2	Nonconforming Uses.....	5-37
5.11.3	Nonconforming Lots .....	5-37
5.11.4	Nonconforming Structures.....	5-37
5.11.5	New Equipment.....	5-38
5.11.6	Use Substitutions .....	5-38
5.11.7	Unsafe Conditions, Ordinary Maintenance.....	5-38
5.11.8	Treatment of a Nonconforming Use Under Special Circumstances .....	5-38
5.11.9	Reason to Terminate a Nonconforming Use .....	5-38
Article 12 Variances		
5.12.1	Generally.....	5-39
5.12.2	Basis of Decision for Dimensional Variances .....	5-39
5.12.3	Basis of Decision for Use Variances .....	5-39
5.12.4	Limitations on Issuing a Variance.....	5-39
5.12.5	Application and Review Procedure.....	5-39
5.12.6	Imposition of Conditions .....	5-40
5.12.7	Effect of Approval.....	5-40
5.12.8	Expiration of Approval .....	5-40
Article 13 Administrative Appeals		
5.13.1	Generally.....	5-41
5.13.2	Procedure.....	5-41
5.13.3	Effect of Appeal.....	5-41
Article 14 Board of Appeals		
5.14.1	Establishment.....	5-42
5.14.2	Membership .....	5-42
5.14.3	Organization, Meetings and Permanent Record .....	5-42
5.14.4	Officers and Employees .....	5-42
5.14.5	Powers .....	5-42
5.14.6	Expenses .....	5-42
5.14.7	Decisions.....	5-42
5.14.8	Appeal of Board Decision.....	5-42

Article 15 Amendments		
5.15.1	Generally.....	5-43
5.15.2	Consistency with Adopted Comprehensive Plan.....	5-43
<b>6</b>	<b>Land Division and Consolidation</b>	
6.1	Findings.....	6-1
6.2	Purpose.....	6-1
6.3	Compliance.....	6-1
6.4	Relationship to Other Requirements.....	6-1
6.5	Application and Review Procedure.....	6-1
6.6	Additional Procedures.....	6-2
6.7	Design Standards – Generally.....	6-2
6.8	Street Design Standards.....	6-3
6.9	Street, Bicycle and Pedestrian Ways Standards.....	6-3
6.10	Lots.....	6-3
6.11	Storm Water Management Facilities.....	6-3
6.12	Street Trees.....	6-3
6.13	Preservation of Existing Vegetation.....	6-4
6.14	Protection of Natural Resources.....	6-4
6.15	Utility Easements.....	6-4
6.16	Improvements.....	6-4
6.17	Reservation of Land.....	6-5
6.18	History of Adoption and Amendments.....	6-5
<b>7</b>	<b>Signs</b>	
7.1	Purpose.....	7-1
7.2	Permit Required.....	7-1
7.3	Signs in Residential and Agricultural Districts.....	7-1
7.4	Business Signs Permitted (On-Premises).....	7-1
7.5	Off-Premises Signs.....	7-2
7.6	Non-Conforming Signs.....	7-2
7.7	Shape and Illumination.....	7-2
7.8	Dilapidated, Unmaintained and Abandoned Signs.....	7-2
7.9	Distance Standards.....	7-2
7.10	Applicability.....	7-2
7.11	Enforcement.....	7-3
7.12	History of Adoption and Amendment.....	7-3
<b>8</b>	<b>Plan Commission</b>	
8.1	Purpose.....	8-1
8.2	Authority; Establishment.....	8-1
8.3	Membership.....	8-1
8.4	Appointments.....	8-1
8.5	Terms of Office.....	8-1
8.6	Vacancies.....	8-1
8.7	Compensation; Expenses.....	8-1
8.8	Experts & Staff.....	8-1
8.9	Rules; Records.....	8-2
8.10	Chairperson & Officers.....	8-2
8.11	Commission Members as Local Public Officials.....	8-2
8.12	General & Miscellaneous Powers.....	8-2
8.13	Town Comprehensive Planning; General Authority & Requirements.....	8-2
8.14	Procedure for Plan Commission Adoption & Recommendation of a Town Comprehensive Plan or Amendment.....	8-3
8.15	Plan Implementation & Administration.....	8-3
8.16	Referrals to the Plan Commission.....	8-4
8.17	Effective Date.....	8-6
<b>9</b>	<b>Application and Permit Fees</b>	
9.1	Findings.....	9-1
9.2	Fee Schedule.....	9-1
9.3	Refund of Fees.....	9-1
<b>10</b>	<b>Town Constable</b>	
10.1	Authority.....	10-1

10.2	Findings .....	10-1
10.3	Jurisdiction and Duties of Town Constable.....	10-1
10.4	Non-exclusivity .....	10-1
10.5	Effective Date .....	10-1
10.6	History of Adoption and Amendment.....	10-1
<b>11</b>	<b>Special Use Ordinance .....</b>	<b>11-1</b>
I.	Uses are not permitted unless a special use permit is approved by the Town Board.....	11-1
II.	Farm and/or real estate auctions, non-profit organization events, outdoor weddings, reunions or similar functions and benefits over 100 participants are permitted with approval of the Town Board and with the fee waived.....	11-1
III.	Conditions.....	11-1
IV.	Applications Procedure and Costs.....	11-1
<b>12</b>	<b>Public Nuisance and Junk Ordinance.....</b>	<b>12-1</b>
Section 1	Applicability .....	12-1
Section 2	Definitions .....	12-1
	1. Public Nuisance - General .....	12-1
	2. Public Nuisances - Affecting Health .....	12-1
	3. Public Nuisances - Affecting Peace and Safety .....	12-2
Section 3	Abatement of Public Nuisances .....	12-2
	1. Inspection of Premises.....	12-2
	2. Notice to Owner .....	12-3
	3. Abatement by Town .....	12-3
	4. Abatement by Court Action .....	12-3
	5. Other Methods Not Excluded .....	12-3
Section 4	Costs of Abatement.....	12-3
	1. Costs.....	12-3
Section 5	Penalties .....	12-3
	1. Penalties.....	12-3
Section 6	Interpretation and Severability.....	12-3
	1. Interpretation.....	12-3
	2. Severability .....	12-4
<b>13</b>	<b>Driveway and Culvert Ordinance.....</b>	<b>13-1</b>
A.	Driveway Permits; Culvert Requirements .....	13-1
	1. Purpose .....	13-1
	2. Culvert Requirements.....	13-1
	3. Driveway and Culvert Permit Required; Application; Fee .....	13-1
	4. Application Provisions .....	13-1
B.	Driveway and Culvert Location, Design and Construction Requirements.....	13-2
	1. General Requirements .....	13-2
	2. Special Requirements for Agricultural, Commercial and Industrial Driveways.....	13-3
	3. Special Requirement for Residential Driveways .....	13-4
	4. Appeal from Permit Refusal.....	13-4
	5. Prohibited Driveways.....	13-4
	6. Culvert Construction Standards, Erosion Control, Cost.....	13-4
<b>14</b>	<b>Farmland Preservation Ordinance (#2012-001).....</b>	<b>14-1</b>
A.	Definitions .....	14-1
B.	Land Use in Farmland Preservation Zoning District; General.....	14-2
C.	Permitted Uses.....	14-3
D.	Conditional Uses.....	14-3
E.	Rezoning Land Out of a Farmland Preservation Zoning District.....	14-5
<b>15</b>	<b>Fire Protection and Burning Ordinance (#2013-002) .....</b>	<b>15-1</b>
A.	Fire Protection Agreement.....	15-1
B.	Fee Schedule for Fire Protection Services .....	15-1
C.	Open Burning .....	15-1
	Exhibit "A" Fee Schedules .....	15-3

**Appendix A** Island Aire Restrictive Covenants

**Appendix B** Annual Fee Schedule (Please refer to Town’s Website for the most recent “Annual Fee Schedule”)

**Appendix C** Municipal Code Amendment Record

*This page left blank intentionally*

**Chapter 1.  
General Provisions.**

.....

- 1.1 Title.**  
This document shall be known and cited as Town of Nepeuskun Municipal Code and may be referred herein as this code.
- 1.2 Abrogation and Greater Restriction.**  
It is not intended by this code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deeds, restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, when this code imposes greater restrictions, the provisions of this code shall govern. In their interpretation and application, the provisions of this code shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- 1.3 Severability.**  
If a court of competent jurisdiction finds that a part of this code is invalid, the remaining sections shall continue in full force and effect.
- 1.4 Inconsistencies.**  
More specific provisions in this code shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provisions.
- 1.5 Delegation of Authority.**  
Wherever a provision in this code requires a town official or employee or another governmental official or employee to do some act or perform some duty, it is to be construed to authorize that individual to designate, delegate, or authorize another to perform the required act or duty, unless the terms of the provision specify otherwise.
- 1.6 Responsibility for Interpretation.**  
In the event that a question arises concerning any provision or the application of any provision in this code, the Town Board shall be responsible for such interpretation, unless this authority is specifically delegated to another Town entity, official, or employee in another chapter of this code.
- 1.7 Graphics, Illustrations, Headings, References, and Statutory Citations.**
- a. **Purpose.** Graphics, illustrations, headings, references, and statutory citations are included to improve the readability of this code. Specifically, graphics and illustrations are included to help depict the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the readers quickly find information they are looking for. References and statutory citations are intended to help the reader understand how that section relates to other provisions.
  - b. **Interpretation.** In case of any difference of meaning, interpretation, or implication between the text and graphic, illustration, heading, reference or statutory citation, the text shall control. They shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.
- 1.8 General Rules of Interpretation.**  
In the interpretation of this code, the following shall be observed, unless such interpretation would be inconsistent with the text and the intent of the Town Board:
- a. **Gender.** Words importing one gender extend and may be applied to any gender.
  - b. **Singular and Plural Words.** Words in the singular include the plural and words in the plural include the singular.
  - c. **Tense.** The present tense of a verb includes the future when applicable. The future perfect tense includes past and future tenses.
  - d. **Shall or Will.** The word “shall” or “will” indicates a mandatory action.
  - e. **May or Should.** The word “may” or “should” indicates a permissive action.
  - f. **Include and Including.** The word “includes” or “including” shall not limit a provision to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
  - g. **Such As.** The phrase “such as” shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

- h. **Wisconsin Administrative Code.** The term “Wisconsin Administrative Code” refers to the most current edition.
- i. **Wisconsin Statutes and Wis. Stats.** The term “Wisconsin Statutes” or “Wis. Stats.” refers to the most current edition.

**1.9 Computation of Time.**

When a time period is specified in this code, the first day to be counted shall be the day after the event that triggers the time clock to start. For example, if an action is to be taken within 30 days of a meeting, the time clock starts on the day after the date of the meeting.

**1.10 Amendments.**

- a. **Generally.** From time to time, the Town Board may amend this code by resolution or ordinance.
- b. **Authority of Town Clerk in maintaining code.** The Town Clerk shall incorporate future ordinances or resolutions into this code as directed by the Town Board and has the authority to organize and number section as he/she deems appropriate to maintain a unified municipal code. The Town Clerk is authorized to keep the history of each chapter up-to-date as amendments are made.

**1.11 Citations and Penalties.**

- a. **Generally.** Citations shall be issued in conformance with §66.0113, Wis. Stats.
- b. **Those designated to issue citations.** The Zoning Administrator may issue citations for violations of Chapters 4, 5, 6, and 7. In addition, any board member or designee of the board may issue citations for any violation of this code.
- c. **Continued violations.** Each violation and each day a violation continues constitutes a separate offense.

d. **Penalties.** Fines may be imposed in the various chapters of this code consistent with the schedule listed in Table 1. In addition, the Town may recover costs of prosecution and other assessments as allowed by state statute. Cash deposits shall be made to the Town Clerk. A receipt shall be given by the Town Clerk for cash deposits.

**Table 1.**

As defined within the penalty provision within each Chapter.	Class I	Class II	Class III
	Fine	Fine	Fine
First offense	\$50	\$100	\$200
Second offense	\$100	\$150	\$250
Third or more offense	\$200	\$300	\$400

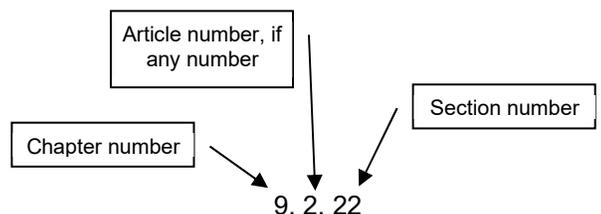
- e. **Remedies if payment to Town is in default.** The Town may use each of the following remedies, and others as may be allowed by state statute, if a person defaults on payment:
  1. Imprisonment in the county jail, up to 6 months, until all fines, prosecution costs, and other assessments are paid.
  2. Execution against the property of the defendant for payment of all fines, prosecution costs, and other assessments.
  3. Refusal to issue any license or permit with the exception of those licenses listed in §66.0115(2), Wis. Stats.

**1.12 Documents Incorporated by Reference.**

When any printed matter is incorporated into this code by reference, it shall be deemed a part of this code as if fully set forth. The Town Clerk shall acquire such material and keep it on file in the Town hall for public inspection.

**1.13 Code Organization and Numbering.**

This code is organized into chapters. Each chapter contains uniquely distinct rules and regulations. For the purpose of this code a numbering scheme has been devised as follows: the first number denotes the chapter, if a chapter is further divided into articles, that number comes second, and the last number is the section number. Each section can further be organized into subparts.



**1.14 Definitions.**

a. Words and terms not defined: Words not defined in this code shall have their meaning in common usage so as to give this code its most reasonable application.

b. Words and terms defined: For the purpose of this chapter, the following words and terms are defined:

Annual Town Meeting: The town meeting held pursuant to §60.11, Wis. Stats. (See §60.001, Wis. Stats.)

Board of Appeals: The entity as established pursuant to state statutes.

Building Inspector: State assigned building inspector that administers the Universal Dwelling Code (UDC) within the Town.

Comprehensive Plan: The comprehensive plan as may be adopted pursuant to §66.1001, Wis. Stats.

County Board: The county board of supervisors for Winnebago County, Wisconsin.

Day: A calendar day.

Business Day: Monday through Friday excluding federal holidays.

Finding: A written conclusion or determination based on evidence made in support of a decision.

Month: A calendar month unless otherwise expressed.

Person: Any individual, corporation, business trust, estate, trust, partnership, association, governmental agency, or any other legal entity.

Special Town Meeting: A town meeting, other than the annual town meeting, held pursuant to §60.12, Wis. Stats.) (See §60.001, Wis. Stats.)

Town: The Town of Nepeuskun of Winnebago County, Wisconsin.

Town Board: The Board of Supervisors for the Town.

Town Clerk: The office of the Town Clerk for the Town.

Town Meeting: The annual town meeting or a special town meeting. (See §60.001 Wis. Stats.)

Year: A calendar year.

Zoning Administrator: The position of zoning administrator for the Town.

**1.15 Annual Fee Schedule.**

Fees associated with code changes or administration shall be consistent with the **Town of Nepeuskun Annual Fee Schedule.**

**1.16 History of Adoption and Amendment.**

The Town Board first adopted this chapter by Ordinance on June 21, 2010. Subsequent to that action, the following amendments have been made to this chapter:

<u>Description</u>	<u>Date</u>
Adopted	December 21, 2010
Amended	August 6, 2015.
Amended	May 26, 2016.

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 2**  
**Recycling Ordinance**

.....

**2.1 Title.**  
Recycling Ordinance

**2.2 Purpose.**  
The purpose of this chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in §287.11 Wis. Stats. and Chapter NR 544 of the Wisconsin Administrative Code.

**2.3 Statutory Authority.**  
This chapter is adopted as authorized under §287.09(3)(b), Wis. Stats., and pursuant to the Town's village powers.

**2.4 Reserved.**

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

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

**2.7 Applicability.** The requirements of this ordinance apply to all persons and property owners within the Town of Nepeuskun.

**2.8 Administration.**  
The provisions of this chapter shall be administered by the Town Board or a designated representative.

**2.9 Effective Date.**  
The provisions of this ordinance shall take effect upon adoption by the Town Board

**2.10 Definitions.**  
For the purposes of this chapter, the following terms shall have the meaning as stated:

**Bi-metal Container.** A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

**Container board.** Corrugated paperboard used in the manufacture of shipping containers and related products.

**Foam Polystyrene Packaging.** Packaging made primarily from foam polystyrene that satisfies one of the following criteria: (1) Is designed for serving food or beverages; (2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container; or (3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

**Glass Container.** A glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead based glass such as crystal, or TV tubes.

**HDPE.** An acronym for high density polyethylene, labeled by the SPI code #2.

**LDPE.** An acronym for low density polyethylene, labeled by the SPI code #4.

**Magazines.** Magazines and other materials printed on similar paper.

**Major Appliance.** A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

**Multiple-family Dwelling.** A property containing 5 or more residential units, including those which are occupied seasonally.

**Newspaper.** A newspaper and other materials printed on newsprint.

**Non-residential Facilities and Properties.** Commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple-family dwellings.

**Office Paper.** High grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

**Other Resins or Multiple Resins.** Plastic resins labeled by the SPI code #7.

**Person.** Any individual, corporation, partnership, association, local governmental unit, as defined in §66.0131(1)(a), Wis. Stats., state agency or authority, or federal agency.

**PETE.** An acronym for polyethylene terephthalate, labeled by the SPI code #1.

**Plastic Container.** An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

**Postconsumer Waste.** Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 291.01(7) Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 289.01(17), Wis. Stats.

**PP.** An acronym for polypropylene, labeled by the SPI code #5.

**PS.** An acronym for polystyrene, labeled by the SPI code #6.

**PVC.** An acronym for polyvinyl chloride, labeled by the SPI code #3.

**Recyclable Materials.** Lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PFC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

**Solid Waste.** The meaning specified in §289.01(33), Wis. Stats.

**Solid Waste Facility.** The meaning specified in §289.01(35), Wis. Stats.

**Solid Waste Treatment.** Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. Treatment includes incineration.

**Waste Tire.** A tire that is no longer suitable for its original purpose because of wear, damage or defect.

**Yard Waste.** Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

## 2.11 Separation of Recyclable Materials.

Occupants of single-family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from post-consumer waste:

- a. lead acid batteries
- b. major appliances
- c. waste oil
- d. yard waste
- e. aluminum containers
- f. bi-metal containers
- g. corrugated paper or other container board
- h. foam polystyrene packaging
- i. glass containers
- j. magazines
- k. newspaper
- l. office paper
- m. rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
- n. steel containers
- o. waste tires

**2.12 Separation Requirements Exempted.**

The separation requirements of §2-11 do not apply to the following:

- a. Occupants of single-family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in §2.11 from solid waste in as pure a form as is technically feasible.
- b. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- c. A recyclable material specified in §2.11 (e) through (o) for which a variance has been granted by the Department of Natural Resources under §287.11(2m) Wis. Stats., or § NR 544.14, Wis. Administrative Code.

**2.13 Care of Separated Recyclable Materials.**

To the greatest extent practicable, the recyclable materials separated in accordance with §2.11 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

**2.14 Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.** Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- 1) Lead acid batteries shall be disposed of at the Winnebago County Land Fill or other WDNR approved recycling facility.
- 2) Major appliances shall be disposed of at the Winnebago County Land Fill or other WDNR approved recycling facility.
- 3) Waste oil shall be disposed of at the Winnebago County Land Fill or other WDNR approved recycling facility.
- 4) Yard waste shall be composted or disposed of by the owner at a WDNR approved facility.

**2.15 Preparation and Collection of Recyclable Materials.**

Except as otherwise directed by the Town Board, occupants of single-family and 2 to 4 unit residences shall do the following for the preparation and collection of the separated materials specified in §2.11(e) through (o):

- 1) Aluminum containers shall be rinsed, stripped of labels and, if possible, flattened.
- 2) Bi-metal containers shall be rinsed, stripped of labels and, if possible, flattened.
- 3) Corrugated Paper and Container board (cardboard) shall be dry, clean, flattened and bundled (tied with string or twine in both directions).
- 4) Foam polystyrene packaging shall be bagged or boxed (no loose material).
- 5) Glass containers shall be rinsed, stripped of tops and separated by color (brown, green and clear).
- 6) Magazines shall be dry, clean and bundled (tied with string or twine in both directions).
- 7) Newspaper shall be dry, clean and bundled (tied with string or twine in both directions).
- 8) Office paper shall be dry, clean and bundled.
- 9) Plastic containers (#'s 1 -7) shall be rinsed with tops removed. Other plastic containers outside of this number range shall be disposed of at a WDNR licensed recycling facility.
- 10) Steel containers including tin cans shall be rinsed, stripped of labels and, if possible, flattened.

- 11) Waste Tires shall be disposed of at the Winnebago County Land Fill or other WDNR approved recycling facility.
- 12) All materials listed above shall be deposited at either the Town of Nepeuskun Drop Off Site or other WDNR approved recycling facility.

**2.16 Responsibilities of Owners or Designated Agents of Multiple-family Dwellings.**

1. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in §2.11(e) through (o):
  - a. Provide adequate, separate containers for the recyclables.
  - b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  - c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  - d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, location and hours of operation, and a contact person or company, including a name, address and telephone number.
2. The requirements set forth above do not apply to the owners or designated agents of multiple-family dwelling if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the material specified in §2.11(e) through (o) from solid waste in as pure a form as is technically feasible.

**2.17 Responsibilities of Owners or Designated Agents of Non-residential Facilities and Properties.**

1. Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in §2.11(e) through (o):
  - a. Provide adequate, separate containers for the recyclable materials.
  - b. Notify in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
  - c. Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.
  - d. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.
2. The requirements set forth above do not apply to the owners or designated agents of non-residential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in §2.11(e) through (o) from solid waste in as pure a form as is technically feasible.

**2.18 Prohibitions on Disposal of Recyclable Materials Separated for Recycling.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in §2.11(e) through (o) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**2.19 Enforcement.**

For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of the Town of Nepeuskun may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

**2.20 Penalties.**

Any person who violates a provision of this chapter shall be subject to a Class I fine as established in Chapter 1 of this code.

**2.21 History of Adoption and Amendment.**

The Town Board first adopted a recycling ordinance on January 16, 1995. The substance of that ordinance was incorporated into this code, with amendment, on June 21, 2010, by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015
Amended	May 26, 2016

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 3**  
**Small Pet Regulation**

**3.1 Purpose.**

It is declared to be the purpose of the Town to establish regulations to prevent and control rabies disease and to prevent animals from running at large and/or disrupting town residents.

**3.2 Generally.**

No person having in his/her possession, or under his/her control, or present on his/her premises, any dog, cat, other domesticated animal, fowl, bird, or other domesticated pet, shall allow or permit the same to:

- a. run at large; or
- b. engage in unreasonable repeated barking, howling, baying, or other loud and disruptive noise or sound so as to disrupt the peace and quiet of the neighborhood within the Town; or
- c. trespass upon any private property belonging to another without the permission of the owner of said property; or
- d. trespass upon any public property within the Town unless the owner or person in charge of such animals: 1) has, in his or her possession, a suitable device for the picking up, collection and proper sanitary disposal of the animal feces; and 2) immediately removes all feces deposited by such animal(s) and disposes of same in a sanitary manner..

**3.3 Definition.**

An animal shall be deemed at large if said animal is not:

- a. on the owner's property, or
- b. under the control of a person by means of a chain, rope, cord, or leash of such strength to control such animal, or
- c. kept within a substantial enclosure.

A dog that is actively engaged in a legal hunting activity, including training, is not considered to be running at large if the dog is monitored or supervised by a person and the dog is on land that is open to hunting or on land on which the person has obtained permission to hunt or to train a dog.

**3.4 Enforcement.**

The County Sheriff and his deputies, any Marshal or Constable, any police officer, or humane officer, and any other person designated by the Town to so act, shall apprehend any such animal running at large, contrary to this chapter, and confine the same at a suitable place. Every animal so confined may be reclaimed by the owner upon payment of all costs, charges, and expenses for apprehension and confining said animal, to the Town or to the person apprehending and confining said animal. All animals so apprehended and confined shall be kept for at least 7 days and if not reclaimed within that time, the animal may be euthanized or otherwise disposed of in accordance with Wis. Stats. 173.23(1m).

**3.5 Adoption by Reference.**

Chapter 174 and §95.21, Wis. Stats., as from time to time amended, are hereby adopted by reference as though fully set forth herein and such chapter and section are made a part of this chapter.

**3.6 Amount of Penalties.**

In addition to the apprehension and confinement cost heretofore provided, any person who may violate any section set forth in this chapter shall be subject to a Class I fine as established in Chapter 1 of this code. Citations shall be issued consistent with Chapter 1.11(b).

**3.7 Collection of Forfeitures and Penalties.**

All forfeitures and penalties imposed under this chapter may be collected in accordance with the provisions of §66.12, 165.87, and Chapter 288, Wis. Stats.

**3.8 History of Adoption and Amendment.**

The Town Board first adopted this chapter by Ordinance on June 21, 2010. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2015
Amended	August 6, 2015

.....  
End of Chapter

**Chapter 4  
Zoning Permit**

.....

**4.1 Purpose.**

It is declared to be the purpose of the Town to insure that building of new structures and building additions to existing structures shall comply with the applicable zoning and subdivision codes. It is further the purpose of the Town to ensure that properties are fairly and appropriately assessed and requiring a permitting process will assist the Town with properly valuing properties within the Town.

**4.2 Zoning Permit Required.**

No building of any kind shall be moved within or into the Town and no building or structure or any part thereof shall be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the Town, except as herein provided, until a permit therefore shall have been obtained by the owner, or his authorized agent, from the Zoning Administrator. The Zoning Administrator shall review applications for permitted uses and render a decision consistent with this part. All new uses, development, buildings, structures, and signs also require site plan approval as set forth in Article 9 of Chapter 5.

**4.3 Application and Review Procedure.**

The following procedure shall be followed:

- a. **Submittal of application.** The applicant shall submit a completed application to the Zoning Administrator along with the appropriate fee as listed in Town's Annual Fee Schedule.
- b. **Determination of completeness.** Within ten (10) business days of submittal, the Zoning Administrator shall determine if the application is complete. If the application is deemed incomplete it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.
- c. **Decision.** Within thirty (30) days of the determination of completion, the Zoning Administrator shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include findings in support of his/her decision and, if approved, conditions as may be imposed.
- d. **Applicant notification.** Within five (5) days following the decision, the Zoning Administrator shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.

**4.4 Expiration of Approval.**

A zoning permit shall expire eighteen (18) months after the date of issuance, and a new permit will be required at a fee of half the cost of the original permit. The renewed permit expires six (6) months after issuance. A permit may only be renewed once by the Zoning Administrator. Further renewals shall require the approval of the Town Board.

**4.5 Review Criteria.**

In reviewing an application for a permitted use, the Zoning Administrator shall insure the proposed use is consistent with the provisions of this chapter and Chapter 5. Projects greater than \$10,000 in improved value that change the original footprint of existing buildings or structures, is a new structure and all permanent signs will require site plan approval by the Town Plan Commission.

**4.6 Limitations.**

Where public sewer is unavailable, no permit shall be issued without the prior approval of sanitary plans and issuance of a Sanitary Permit by the Winnebago County sanitary inspector. Except for barns, silos, and similar farm buildings, no permit shall be issued for any addition, reconstruction, enlargement, or conversion of a principal building where sanitary facilities are not provided in accordance with the Winnebago County, Wisconsin, Sanitary Ordinance and Chapter ILHR 83 of the Wisconsin Administrative Code.

**4.7 Compliance with County Storm Water and Erosion Control Requirements.**

No zoning permit may be issued until such time as Winnebago County has issued appropriate permits for storm water management and erosion control.

**4.8 Certificate of Compliance.**

Where a zoning permit is required under this chapter, no development, building, or structure shall be used or occupied until the building inspector issues a certificate of occupancy.

**4.9 Compliance with Ordinances.**

No zoning permit shall be issued unless the property on which the building is supposed to be built abuts a public right of way or a private road that has been approved by the Town Board; complies with all zoning requirements; and complies with all other applicable Town ordinances.

**4.10 Plans.**

The Zoning Administrator may require, at his or her discretion, such plans or drawings as is necessary to determine whether the proposed building will comply with Town ordinances.

**4.11 Application.**

Application for a Zoning Permit shall be made in writing upon a form furnished by the Zoning Administrator and shall state the name and address of the owner of the land and also the owner of the building, if different, a legal description of the land upon which the building will be located, the name and address of the architect or designer, the use to which the building is to be put and such other information as the Zoning Administrator may require.

**4.12 Fees.**

The Zoning Administrator shall collect a fee from the applicant at the time of issuance of the permit. The fee schedule shall be set by the Town and amended from time to time.

**4.13 Exceptions.**

Repair and/or replacement of roofs and gutters do not require a zoning permit. A zoning permit is not required for building activities noted in 4.2 if the cost or value of the improvement is less than \$2000 per year and the activity occurs within a 12 month period.

**4.14 Authority to Halt Construction.**

The Zoning Administrator shall have the authority to halt any work when in his or her opinion; such work is not in compliance with Town ordinances. The Zoning Administrator may immediately revoke the zoning permit and such permit shall not be reissued unless proper corrections have been made to comply with the Town ordinances.

**4.15 Amount of Penalties.**

Any person who shall violate any section set forth in this chapter shall be subject to a Class I fine as established by Chapter I of this code in addition to any other remedies available to the Town at law or equity.

**4.16 History of Adoption and Amendment.**

The Town Board previously adopted a Zoning Ordinance requiring building permits on September 19, 1988. The substance of that ordinance was incorporated into this code with amendment on June 21, 2010 by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015

.....

End of Chapter

**Chapter 5  
Town Zoning Code**

.....

**Article**

- 1. General Provisions**
- 2. Construction, Interpretation and Definitions**
- 3. Administrative Functions**
- 4. Zoning Districts**
- 5. A-2 District Supplemental Regulations**
- 6. R-1 District Supplemental Regulations**
- 7. A-1 Farmland Preservation Ordinance**
- 8. Application Process for Conditional Uses**
- 9. Site Plan Review**
- 10. Development and Use Standards**
- 11. Nonconforming Uses, Structures, and Lots**
- 12. Variances**
- 13. Administrative Appeals**
- 14. Board of Appeals**
- 15. Amendments**

**Article I.  
General Provisions**

- 5.1.1 Title.**  
This chapter shall be known as the "Town Zoning Code."
- 5.1.2 Authority.**  
This chapter is adopted under authority granted by §60.22, Wis. Stats.
- 5.1.3 General Purpose.**  
This code is intended to:
- a. implement the goals, objectives, and policies of the Town's Comprehensive Plan as may be adopted and/or amended;
  - b. provide for consistent standards, regulations, and procedures for the review of all proposed development in the Town; and
  - c. promote the public health, safety, and general welfare of the Town.
- 5.1.4 Compliance.**
1. **Generally.** No building of any kind shall be moved within or into the Town and no building or structure or any part thereof shall be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the Town without a zoning permit, except as provided in Chapter 4, 4.13, and without full compliance with this chapter and all other applicable town, county, and state regulations; provided, however, that this chapter shall not govern normal farming operations on farmland, or normal filling, grading, gardening, or landscaping of land.
  2. **Vested rights and exception.** When a zoning permit has been issued in accordance with law prior to the effective date of this chapter, or amendment thereto, it shall be valid for one year from date of issuance, even if it authorizes an action that is not allowed under this chapter, or amendment. If the action, as authorized by the permit, does not commence within that time period and continues in good faith to completion, said permit shall be null and void.
- 5.1.5 Burden of Proof.**  
During the application processes required in this chapter, the applicant has the burden of proof to show that the proposal is consistent with this code.
- 5.1.6 No Defense to Nuisance Action.**  
Compliance with the standards and requirements of this code shall not constitute a defense to an action to abate a nuisance.
- 5.1.7 Abrogation and Greater Restrictions.**  
This chapter is not intended to interfere with, abrogate or annul any existing easements, covenants or other agreements between parties, nor is it intended 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 chapter imposes greater restrictions, the provisions of this chapter shall control. In addition, the provisions of the Winnebago County, Wisconsin, Shoreland/Flood Plain Ordinance, as adopted by said County as of the date of this Chapter and as it may later be amended are incorporated by reference. Whenever the Winnebago County Shoreland/Flood Plain Ordinance conflicts with applicable underlying provisions of this chapter, the more restrictive combinations of such shall govern.
- 5.1.8 Zoning District Map.**  
The zoning district map, showing the boundaries of zoning districts described herein and on file with the Town Clerk, is incorporated by reference.
- 5.1.9 Enforcement.**  
In case of any violation, the Town Board, the Zoning Administrator, the Plan Commission, or any property owner who would be specifically damaged by such violation may take appropriate action or proceedings to enjoin a violation of this chapter. Every structure, fill or development placed or maintained in floodplains in violation of this chapter is a public nuisance; and the creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by Winnebago County, the Town, or any citizen who lives in or within 500 feet of the floodplain.

**5.1.10 Penalties.**

Any person who commences an action in the absence of a permit required in this chapter or who does not comply with the conditions or limitations contained in a permit that has been issued shall be subject to a Class III fine as established in Chapter 1 of this code.

**5.1.11 History of Adoption and Amendment.**

The Town Board adopted a zoning ordinance in 1988. Also see the end of this chapter for history of amendments.

**Article 2.  
Construction, Interpretation, and Definitions**

**5.2.1 General Rule of Construction.**

The provisions of this chapter shall be held to be the minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics, and general welfare of the Town, and shall be liberally construed in favor of this chapter.

**5.2.2 Responsibility for Interpretation.**

1. **Responsibility for interpretation.** In the event that a question arises concerning any provision or the application of any provision, the zoning administrator shall be responsible for such interpretation and shall look to the overall intent of this chapter. The Zoning Administrator shall provide such interpretation in writing to the applicant upon request and shall keep a permanent public record of said interpretations.
2. **Limitations on interpretations.** This responsibility for interpretation shall not be construed as overriding the responsibility given to any commission, board, or official named in other parts of this chapter.

**5.2.3 Definitions.**

1. **Incorporation by reference.** Shoreland definitions set forth in Chapter NR 116 of the Wisconsin Administrative Code are incorporated by reference.
2. **Words defined.** For the purpose of this chapter, the following words and terms are defined:

**Accessory building, structure or use** means any building, structure, or use that is clearly incidental and subordinate to and customarily found with a principal use. An accessory building or use cannot occur until after a principal building or use is in existence.

**Animal unit (AU)** means a unit of measure used to determine the total number of single animal types or combination of animals types, which are fed, confined, maintained, or stabled in an animal feeding operation (see 5.10.9).

**Approved burial vault** means a rigid container providing an environment for the preservation of its contents. It must be able to adequately support the load placed upon it to prevent eventual deterioration and ground sinking. The most common material in a vault is cement.

**Auction –Traditional** means an auction of traditional expectation that is held for the personal sale of an estate and/or items within the estate. A “Traditional Auction” does not utilize structures or buildings specific to the task of holding an auction.

**Basement** means a story partly underground but having at least one-half of its height above the mean level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurements if the vertical distance between the ceiling and the mean level of the adjoining ground is more than five feet, or if used for business purposes, or if used for dwelling purposes by other than a janitor or his family.

**Base Farm Tract** means all land, whether one parcel of more contiguous parcels, which is in an A-1 or A-2 zoning district and is part of a single farm regardless of any subsequent changes in the size of the farm. The Town of Nepeuskun has established base farm tracts as of 12-21-2010 that are of this same definition. Parcel ownership requirements shall be consistent with Wis. Stats Chapter 91 definitions.

**Building height** means the vertical distance from the mean elevation of the lowest finished grade along the front of the building to the highest point.

**Cellar** means a story having more than one-half of its height below the mean level of the adjoining ground. A cellar should not be occupied for living purposes, and shall not be counted as a story for purposes of height measurement.

**Conditional use** means a land use that would not be appropriate generally or without restriction throughout a specified area but which, if controlled as to the number, area, location, or relation to the area could promote the public health, safety, or general welfare.

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

**Frontage** means that side of a lot abutting on a public road.

**Grade** means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**Hazard** Any condition, whether natural or man-made, that presents a tangible danger to the public health, safety, or general welfare.

**Land use** means, as the context would indicate, (1) the development that has occurred on the land, (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

**Lot** means a parcel of land occupied or to be occupied by one main building or use, with its accessories and including the open space accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open-space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

**Lot depth** means the mean horizontal distance between the front and rear lot lines.

**Lot lines** means the lines bounding a lot, as defined in this ordinance.

**Manufactured home** means any of the following: (1) A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. (2) A structure which meets all the requirements of the above except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 to 5425, and except that such term shall not include any self-propelled recreational vehicle. (See §101.91(2), Wis. Stats.)

**Nonconforming use** means a building or land occupied by a use that does not conform to the use regulations of the district in which it is situated.

**Common open space** means land within or related to a development, not individually owned, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

**Parking space** means an off-street area required for parking 1 automobile.

**Principal building** means the primary structure that houses a principal use.

**Principal use** means the main use of land or structures as distinguished from a secondary or accessory use.

**Road** means a public thoroughfare which affords the principal means of access to abutting property.

**Structure** means anything constructed or erected, the use of which requires more or less permanent location on the ground.

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

**Swale** means a wide shallow ditch or depression used to temporarily convey, store, and filter storm water runoff.

**Usable floor area** means the area within the exterior wall lines of a building; provided, that the floor area shall not include attics, cellars or utility rooms, garages, breezeways and unenclosed porches, and other areas not furnished or usable as living quarters.

**Variance** means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

**Yard** means an open space on the same lot with a principal building or group of buildings which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this ordinance, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the lot is located. The yard depth or width is measured as the minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps. Ordinary projection of sills, belt courses, chimneys, flues, eaves, and troughs may project into the required yard no more than one-third of its minimum width or twenty-four inches, whichever is smaller.

**Yard, front** means an open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the public road and the front line of the building, projected to the side lines of the lot.

**Yard, rear** means an open space on the same lot as the principal building, unoccupied except as permitted in this ordinance, and including accessory buildings which may occupy the rear yard as permitted in the residence districts. The rear yard is situated between the rear line of the lot and the rear line of the buildings, projected to the side lines of the lot.

**Yard, side** means space on the same lot with the principal building, situated between the side of the building and the adjacent side line of the lot, and extending from the rear line of the front yard to the front line of the rear yard. If there is no front yard, the front boundary of the side yard shall be the front line of the lot, and if there is no rear yard, the rear boundary of the side yard shall be the rear line of the lot.

**Article 3.  
Administrative Functions**

**5.3.1 Zoning Administrator.**

1. **Appointment.** The Town Board shall appoint a Zoning Administrator to administer this chapter. When practicable, the Zoning Administrator shall be a resident of the Town.
2. **Compensation.** The Board may compensate the Zoning Administrator at a rate established through the Town's budgeting process.

**5.3.2 Responsibilities and Rights of Zoning Administrator.**

1. **General duties.** The zoning administrator shall accept applications, issue or deny zoning permits, give notice of violations, and enforce the provisions of this chapter.
2. **Access and inspection.** The Zoning Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary to ensure compliance with this chapter and other regulations. He/she shall have the authority to procure special inspection warrants in accordance with Wisconsin Statutes.
3. **Authority to halt violations.** The Zoning Administrator 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 chapter or other applicable regulation.

**Article 4.  
Zoning Districts**

**5.4.1 Districts.**

The Town is divided into the zoning districts as listed in this section. The district boundaries are shown on the following maps which are a part of this code: (1) the official zoning map, which is on file in the office of the Town Clerk; and (2) the general floodplain overlay(s) on the official zoning map of Winnebago County on file in the office of the Winnebago County zoning administrator.

**5.4.2 Purpose and Intent of Districts.**

**1. Residential District R-1.**

The purpose of the R-1 Residential District is to preserve rural landscape character, natural resource areas, and open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. This district is intended to provide a quiet, pleasant, and relatively spacious living area, protected from traffic hazards and the intrusion of incompatible land uses. Basic district standards are designed to provide reliable single and two-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

District Name	Designation
Residential District	R-1
Shoreland Residential District	R-2
Farmland Preservation District (Chapter 14)	A-1
Agricultural District	A-2
Existing Commercial District	C-1
Community Commercial District	C-2
Public Lands Institutional	PLI
Farm Preservation Overlay	FPO

**2. Shoreland Residential District R-2.** The purpose of the R-2 Shoreland Residential District is to accommodate in-fill residential development on existing lots adjacent to Rush Lake, consistent with Winnebago County shoreland zoning standards and the Island Aire subdivision covenant (Exhibit 1)

**3. Farmland Preservation District A-1.** See Chapter 14.

**4. Agricultural District A-2.** The purpose of the A-2 Agricultural District is to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.

**5. Existing Commercial District - C-1.** This district is intended to recognize those commercial enterprises on single parcels that existed on the effective date of this code. This designation is not intended to be applied to surrounding parcels through the rezoning process. Those enterprises that existed on the effective date of this code are allowed to continue and exist. Future land uses shall conform to those uses allowed in the C-2 district.

**6. Community Commercial District – C-2.** This district is designed to accommodate those retail and customer service establishments which are characteristic of a small town.

**7. Public Lands Institutional – (PLI).** This district is intended to include public facilities and lands and institutional uses.

**8. Farm Preservation Overlay – (FPO)**

**a. Purpose.** The district provides for the conservation and protection of lands planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun. This district is an overlay district applying the provisions of the A-1 district (Chapter 14) and Section 5.4.3, Exhibit 2. This overlay will only be applied within areas planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun zoned Agricultural (A-1) and Agriculture (A-2) in the Town of Nepeuskun Municipal Code.

b. **Permitted Uses.**

(1) Any permitted use authorized in the Farmland Preservation District (A-1). See Chapter 14.

c. **Conditional Uses.**

(1) Any conditional use authorized in the Farmland Preservation District (A-1). See Chapter 14.

d. **Standards.**

(1) Permitted and Conditional Uses: As authorized and regulated in the Farmland Preservation District (A-1).

(2) Standards for Rezoning Lands out of the Farm Preservation Overlay: As authorized and regulated in the Farmland Preservation District (A-1). See Chapter 14.

**5.4.3 Land Use within Districts.**

1. **Generally.** All uses within each district shall conform to the standards for each district as provided for in Exhibit 2 and this part. Because the list cannot include every conceivable type of land use, the listed uses shall be interpreted to include other uses that have similar impacts to the listed uses. Those uses that are not listed and which cannot be interpreted to be similar to any listed use are prohibited.
2. **Non-conforming uses.** Those uses which were lawfully created prior to the effective date of this code, and which according to Exhibit 2 and this part are now prohibited, shall be considered a non-conforming use and shall be subject to the provisions contained in this chapter.

**Exhibit 2. Land Uses by District**

Agricultural Uses	***			C-1			Public/Semi-Public Infrastructure & Utilities					
	A-1	A-2	R-1	R-2	C-2	PLI	A-1	A-2	R-1	R-2	C-2	PLI
Agriculture, animal <sup>1</sup>	P	P	C	-	C	-	C*	C	-	-	-	P
Agricultural use (Chapter 14 defined)	P	P	P	-	P	P	-	C	-	-	-	C
Agri-Tourism	C*	C	-	-	C	-	C	C	-	-	-	C
Animal processing plant (not an accessory use)	C	C	-	-	-	-	-	C	C	C	C	C
Animal rendering plant	C	C	-	-	-	-	-	-	-	-	-	C
Food processing facility (not an accessory use)	C	C	-	-	-	-	-	C	-	-	-	C
Game farm (Does not include outdoor/indoor shooting range activities)	C*	C	-	-	-	-	-	C	-	-	-	C
Intensive animal production	C	C	-	-	-	-	C	C	C	C	C	C
Agricultural-related use. (Chapter 14 defined)	C	C	-	-	P	-	C	C	C	C	C	C
<b>Resource-Based Uses</b>												
Aggregate and soil extraction operation Must meet Wis. Stats 91.46 (6)	C	C	-	-	-	-	-	-	-	-	-	-
Forestry	P	P	P	-	P	P	-	-	-	-	-	-
Hunting and fishing preserve (Private)	C*	P	-	-	-	-	-	-	-	-	-	-
Hunting and fishing preserve (Government or Non-Profit Under Wis. Stats 91.46(5))	C	P	-	-	-	-	-	-	-	-	-	-
Sludge disposal - Municipal - per Wis. Stats 91.46(5)	C	C	-	-	-	-	-	-	-	-	-	-
Undeveloped natural space areas	P	P	P	P	P	P	-	-	-	-	-	-
<b>Residential Uses</b>												
Residence, single or two-family built prior Jan. 1, 2014	P	P	P	P	P	-	-	-	-	-	-	-
Residence, multi-family	-	-	C	C	C	-	-	-	-	-	-	-
Retirement home	-	-	C	C	C	-	-	-	-	-	-	-
Manufactured home park	-	-	C	C	C	-	-	-	-	-	-	-
Farm Residence, single-family/two-family	P	P	-	-	C	-	-	-	-	-	-	-
Non-Farm Residence, single-family/two-family	-	P	P	P	C	-	-	-	-	-	-	-
<b>Special Care Facilities</b>												
Adult family home	-	-	P	P	-	-	-	-	-	-	-	-
Community living arrangement, Type I	-	-	P	P	-	-	-	-	-	-	-	-
Community living arrangement, Type II	-	-	C	C	-	-	-	-	-	-	-	-
Community living arrangement, Type III	-	-	C	C	-	-	-	-	-	-	-	-
Day care center	-	-	C	C	-	-	-	-	-	-	-	-
Family day care home	P*	P	P	P	-	-	-	-	-	-	-	-
Foster home (per Wis. Stats 48.62)	C	C	P	P	-	-	-	-	-	-	-	-
Foster home (treatment)	-	-	P	P	-	-	-	-	-	-	-	-
Group home for children	-	-	C	C	-	-	-	-	-	-	-	-
Nursing home	-	-	-	-	C	-	-	-	-	-	-	-
<b>Overnight Accommodations</b>												
Bed and breakfast & short-term rentals	C*	P	P	P	-	-	-	-	-	-	-	-
Campground	-	-	-	-	-	P	-	-	-	-	-	-
Group camp	-	-	-	-	-	-	-	-	-	-	-	-
Hotel/motel	-	-	-	-	C	-	-	-	-	-	-	-
<b>Sales &amp; Service</b>												
Auction Facility	C*	C	-	-	C	C	-	-	-	-	-	-
Contractor yard, type I	C*	C	-	-	P	-	-	-	-	-	-	-
Contractor yard, type II	C*	-	-	-	C	-	-	-	-	-	-	-
Eating establishment	-	-	-	-	P	-	-	-	-	-	-	-
Kennel, commercial	-	C	-	-	C	-	-	-	-	-	-	-
Outfitter service	-	C	-	-	-	-	-	-	-	-	-	-
Sales, agriculture	C*	C	-	-	P	-	-	-	-	-	-	-
Sales, construction materials	-	-	-	-	P	-	-	-	-	-	-	-
Sales, convenience	-	-	-	-	P	-	-	-	-	-	-	-
Sales, general	-	-	-	-	P	-	-	-	-	-	-	-
Sales, manufactured housing	-	-	-	-	C	-	-	-	-	-	-	-
Sales, liquor off-site	-	-	-	-	P	-	-	-	-	-	-	-
Sales, liquor on-site	-	-	-	-	C	-	-	-	-	-	-	-
Sales, roadside stand	P	P	C	-	C	-	-	-	-	-	-	-
Sales, secondhand	-	-	-	-	C	-	-	-	-	-	-	-
Sales, shopping center	-	-	-	-	C	-	-	-	-	-	-	-
Sales, specialty	-	-	-	-	P	-	-	-	-	-	-	-
Sales, temporary	-	C	C	-	C	-	-	-	-	-	-	-
Service, agricultural	C*	C	-	-	P	-	-	-	-	-	-	-
Service, financial	-	-	-	-	P	-	-	-	-	-	-	-
Service, funeral home	-	-	-	-	P	-	-	-	-	-	-	-
Service, general	-	-	-	-	P	-	-	-	-	-	-	-
Service, medical	-	-	-	-	P	-	-	-	-	-	-	-
Service, professional/administrative	-	-	-	-	P	-	-	-	-	-	-	-
Vehicle cleaning	-	-	-	-	P	-	-	-	-	-	-	-
Vehicle fuel sales	-	-	-	-	P	-	-	-	-	-	-	-
Vehicle sales and rental	-	-	-	-	C	-	-	-	-	-	-	-
Vehicle service/repair	-	-	-	-	C	-	-	-	-	-	-	-
Veterinary clinic (serving livestock)	C	C	-	-	P	-	-	-	-	-	-	-
Veterinary clinic (serving small pets exclusively)	-	C	-	-	P	-	-	-	-	-	-	-
<b>Storage Facilities</b>												
Mini-storage facility	-	-	-	-	C	-	-	-	-	-	-	-
Truck terminal	-	-	-	-	C	-	-	-	-	-	-	-
Warehouse	-	-	-	-	C	-	-	-	-	-	-	-

**Notations:**

* Use must meet requirements of WI States 91.01(1) (b) or (d) for farmland preservation designated parcels or be rezoned out of farmland preservation.	<b>Key:</b>	- = Not permitted										
** Town may be limited to the use of a Conditional Use Permit or waive the requirement altogether based on Wisconsin Statutes.		C = Conditional use										
*** A-2 uses may be subject to farm preservation overlay district requirements		P = Permitted by right										

<sup>1</sup> In the A2 and A-1 zone, farm animals (as defined in the Agricultural, animal use definition) are not permitted on lots less than 2 acres unless the parcel is part of a tract of land in common contiguous ownership that is at least 2 acres in size. <sup>2</sup> See Sec. 5.10.13, must meet provisions of Wis. Stats 178.03.

**5.4.4 Community and Other Living Arrangements.**

1. **Limitations.** Under state law, the Town may not limit the number of community living arrangements so long as the total capacity of such facilities does not exceed twenty-five (25) or 1 percent of the Town's population, whichever is greater. When such threshold is exceeded, the Town will require future community living arrangements be approved through a conditional use process. (See § 62.23(7)(i), Wis. Stats.) A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under §48.62, Wis. Stats., or an adult family home certified under §50.032(lm)(b), Wis. Stats., are exempt from this provision. (See § 62.23(7)Wis. Stats.)
  
2. **Periodic review of existing facilities.** Not less than eleven (11) months but not more than thirteen (13) months after the first licensure of an adult family home under §50.033, Wis. Stats., or of a community living arrangement and every year thereafter, the Town Board may make a determination pursuant to 62.23(7)(i)Wis. Stats., as to the effect of such facility on the health, safety, or welfare of residents of the municipality. If the Board determines such facility poses a threat to the health, safety, or welfare of the residents of the municipality, the Board may order such facility to cease operation or obtain a conditional use permit to continue operation. Such facility shall cease operation within 90 days after date of the order, or the date of final judicial review of the order, or the date of the denial of a conditional use permit, whichever is later. (See § 62.23(7)(i), Wis. Stats.)
  
3. **Proximity to other facilities.** The following rules relating to proximity of facilities shall apply to community living arrangements and adult family homes:
  - a. **Community living arrangement.** No community living arrangement may be established within 2,500 feet of another such facility. Two community living arrangements may be allowed if both facilities comprise components of a single program. (See §62.23(7)(i)1.Wis. Stats.) A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under §48.62, Wis. Stats., are exempt from this provision. (See §62.23(7)(i)2m, Wis. Stats.)
  
  - b. **Adult family home.** No adult family home described in §50.01(l)(b), Wis. Stats., may be established within 2,500 feet of another such facility or any community living arrangement. (See §56.69(15)(br), Wis. Stats.) Adult family home certified under §50.032(lim)(b), Wis. Stats., are exempt from this provision. (See §62.23(7)(i)2r.a.Wis. Stats.)

**5.4.5 Land Use Definitions.**

For the purpose of this chapter certain land uses are defined below and shall have the meaning ascribed to them. Terms and definitions contained in this part correspond to those listed in Exhibit 2.

**AGRICULTURAL USES**

*Agricultural use, agricultural accessory use, agricultural related use and Farm residence – see Chapter 14 definitions.*

**Agriculture, animal** means a parcel and/or building, or portion thereof, which is used or is intended for animal-based agricultural purposes, including dairying, pasturage, aquaculture and animal and poultry husbandry. The term does not include intensive animal production operations as herein defined.

**Agriculture, non-animal** means a place and/or building, or portion thereof, that is used or is intended for agricultural purposes, including farming, agriculture, horticulture, floriculture, and viticulture. The term does not include any type of animal-based agriculture.

**Agri-Tourism** means a use that personifies the coming together of the continual agricultural use of lands and the open character of the town with the desire of tourists (visitors) to experience the outdoors, the leisure pace of life and to enjoy the nutrition of locally sourced foods and products. Activities could include local sourced food processing and serving on site. Within the definition of qualifying as an agri-tourism use, 60% of all sales must include locally sourced produce or products. Locally sourced is defined as produce and/or products grown, processed or prepared in the State of Wisconsin.

**Animal processing plant** means a place and/or building, or portion thereof, that is used or is intended for the slaughter of livestock or poultry or the preparation of meat food products on a commercial basis.

**Animal rendering plant** means a place and/or building, or portion thereof, that is used or is intended for the collection or handling of the bodies or parts of bodies of dead animals or fowl not for human consumption.

**Food processing facility** means a place and/or building, or portion thereof, that is used or is intended for processing agricultural products produced in the area. Examples include creameries, milk condenseries, cheese factories, canneries, and grain elevators.

**Game farm** means a place and/or building, or portion thereof, which is used or is intended for purposes of obtaining, rearing in captivity, keeping, raising, and selling game farm animals/livestock as authorized by state law.

**Intensive animal production** means a tract, or portion thereof, that is used or is intended for raising animals where the number of specified animals exceeds 500 animal units.

### **RESOURCE-BASED USES**

**Aggregate and soil extraction operation** means a place that is used or is intended to remove any aggregate or soil resource from the ground in any manner, or to stockpile or process any aggregate or soil resource for sale as an industrial or commercial product by either retail, wholesale, contract purchase or other considerations, including uses by a governmental agency. Aggregate and soil extraction operation require a conditional use permit and parcels designated as Farmland Preservation must also meet Wisconsin Statute 91.46(6). The term does not include on-site leveling, grading, filling, or removing of earth materials in conjunction with a farm use, road construction, or for on-site construction projects.

**Forestry** means the practice of harvesting, thinning, and planting of trees, including all associated forest management activities. The term includes temporary skidding yards necessary to store and sort logs harvested on the premises. The term does not include processing, permanent skidding yards, and the like.

**Hunting and fishing preserve** means a place that is used or is intended primarily for hunting and/or fishing which may or may not be open to the public for a fee. The term includes shooting preserves and duck clubs. The term does not include lands that are leased for private individual use. Hunting and fishing preserve shall be maintained as natural resource/open space use.

**Sludge disposal** means the surface or subsurface application of municipal sludge to land. Sludge disposal does not include the spreading of septage. Sludge disposal shall meet the requirements of Wisconsin Statute 91.46(5).

### **RESIDENTIAL USES**

**Dwelling unit** means the State of Wisconsin Uniform Dwelling Code definition.

**Residence, single-family** means a building containing one (1) dwelling unit, and not attached to any other dwelling unit by any means. This includes manufactured homes that are placed on a permanent foundation.

**Residence, two-family** means a single building containing two (2) separate dwelling units. Dwelling units shall be separated by a permanent firewall.

**Residence, multi-family** means a single building containing three (3) or more separate dwelling units.

Residence, farm means any of the following structures located on a farm:

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

Residence, non-farm means any residence other than a farm residence.

**Retirement home** means a place and/or building, or portion thereof, that is used or is intended to provide independent living quarters, either owned or rented, to persons generally 62 years of age or older. Limited commercial and medical facilities constructed and used for the exclusive use of residents shall be an accessory use of the retirement home.

**Manufactured home park** means a place providing two (2) or more parcels for lease or rent to the general public for the purpose of accommodating manufactured homes.

**SPECIAL CARE FACILITIES**

**Adult family home** means a facility licensed by the state under §50.032 (Im)(b), Wis. Stats.

**Community living arrangement** means any one of the following facilities: (1) residential care centers for children and youth, as defined in §48.02(15d), Wis. Stats., operated by a child welfare agency licensed under §48.60, Wis. Stats.; (2) group homes for children, as defined in §48.02(7); and (3) community-based residential facilities, as defined in §50.01(lg), Wis. Stats.

**Community living arrangement, Type I** means a community living arrangement with 8 or fewer individuals.

**Community living arrangement, Type II** means a community living arrangement with 9 to 15 individuals.

**Community living arrangement, Type III** means a community living arrangement with more than 16 individuals.

**Day care center** means a facility providing day care for four (4) or more children under the age of seven (7) for less than 24 hours per day as licensed under §48.65, Wis. Stats.

**Family day care home** means a private residence licensed as a day care center by the Wisconsin Department of Health and Family Services where care is provided for not more than eight (8) children. (See §66.1017, Wis. Stats.)

**Foster home** means a facility licensed under by the state for the care and maintenance of children and youth. (See §48.62, Wis. Stats.)

**Foster home (treatment)** means a foster home, which also provides structured professional treatment. (See §48.62, Wis. Stats.)

**Group home for children** means any facility providing care to 5 to 8 children for which state licensing is required under §48.625, Wis. Stats.

**Nursing home** means a place where five (5) or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual; (2) a hospice as defined in state law; or (3) a residential care complex. (See §50.01(3), Wis. Stats.)

**OVERNIGHT ACCOMMODATIONS**

**Bed and breakfast** means a single-family residence that offers overnight accommodations and a meal for a daily charge, and which also serves as a primary residence of the operator or owner. Short term rentals (STR's) are included in this definition.

**Campground** means a place and/or buildings or portions thereof, which is used or is intended for public camping, where persons can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a laundromat, retail sales, and recreational amenities for the enjoyment and convenience of campground guests.

**Group camp** means a place and/or building, or portion thereof, or tents or other structures (permanent or mobile) maintained as living quarters that ~~is~~ are used or is intended to be used by a group of individuals for recreational or educational purposes. The term includes youth camps and church camps.

**Hotel/motel** means a building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests with or without meals.

**SALES AND SERVICE**

**Contractor yard** means a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one (1) or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.

**Contractor yard, Type I** means a contractor yard that would be compatible in size and scope in a rural residential setting as defined by performance standards herein described or as may be adopted and shall meet requirements with in Farmland Preservation designated parcels and shall comply with Wis. Statue 91.01(1)(d) or be rezoned out of Farmland Preservation.

**Contractor yard, Type II** means a contractor yard that would be compatible in size and scope with industrial and commercial activities as defined by performance standards herein described or as may be adopted and shall meet requirements with in Farmland Preservation designated parcels and shall comply with Wis. Statue 91.01(1)(d) or be rezoned out of Farmland Preservation.

**Eating establishment** means a place and/or buildings or portions thereof, that is used or is intended for the preparation and sale of food and beverages for immediate consumption on the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery store with a food service section.

**Kennel, commercial** means a place and/or building, or portion thereof, that is used or is intended for housing four (4) or more dogs over six (6) months of age which are kept for boarding, breeding, training, or sale. Farmland Preservation designated parcels shall comply with Wis. 91.01(1)(d) or be rezoned out of Farmland Preservation. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.

**Outfitter service** means a place and/or building, or portion thereof, which is used or is intended to provide services, materials, supplies, equipment, and limited overnight accommodations for guided trips for hunting, fishing, rafting, or any other outdoor recreational activity. The term does not include retail sales of any kind.

**Sales, agriculture** means a place and/or building, or portion thereof, which is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. The term includes structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations.

**Sales, construction materials** means a place and/or building, or portion thereof, used or is intended for wholesale or retail sales of bulk construction materials such as roofing, lumber, bricks, component parts (trusses) and the like. The term does not include hardware stores, concrete plants, asphalt mixing plants or any facility that manufactures building materials and offers them for retail sale on the premises.

**Sales, convenience** means a place and/or building, or portion thereof, that is used or is intended for personal services or retail sale of a limited product line of frequently needed personal items. The term includes convenience stores, small grocery stores, and the like.

**Sales, general** means a place and/or building, or portion thereof, that is used or is intended for retail sale of a diverse product line. The term includes grocery stores, warehouse retail outlets, comparison shopping stores, full-line department stores, and the like.

**Sales, manufactured housing** means a place and/or building or portions thereof, which is used or is intended for on-site display and sales of mobile homes, modular homes, or other forms of manufactured housing.

**Sales, on-site liquor** means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars, lounges, or taverns.

**Sales, off-site liquor** means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. The term includes package liquor stores.

**Sales, roadside stand** means a place and/or building, or portion thereof, not exceeding 240 square feet that is used or is intended for the retail sale of agricultural products, produce, baked goods and handicraft items.

**Sales, secondhand** means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods and merchandise which are not being sold for the first time. The term includes secondhand stores, thrift stores, consignment shops, and the like.

**Sales, shopping center** means more than one sales or service use built on a single site, which is planned, developed, owned, and managed as an operating unit.

**Sales, specialty** means a place and/or building, or portion thereof, that is used or is intended for retail sale of a limited product line. The term includes antique shops, furniture stores, auto parts stores, bookstores, drug stores, clothing boutiques, pet stores, and the like.

**Sales, temporary** means a place and/or building, or portion thereof, that is used or is intended for retail sales over a limited duration. The term includes firework sales, flea markets, consignment sales and the like. The term does not include private yard or garage sales or the sale of agricultural products produced on the premises.

**Service, agricultural** means a place and/or building, or portion thereof, which is used or is intended to be used for maintenance, service, and repair of agricultural vehicles and equipment. The term does not include vehicle and equipment repairs that are part of an on-site farm operation.

**Agricultural Commerce** means a retail or wholesale enterprise, operated as an accessory use to an active farm on the same premises, providing services or products principally utilized in agricultural production, including buildings, structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs; or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations.

**Service, financial** means a place and/or building, or portion thereof, which is used or is intended for providing financial and banking services. The term includes banks, savings and loan institutions, other lending institutions, and check cashing facilities. The term does not include automated teller machines, which are considered as an accessory use to commercial enterprises.

**Service, funeral home** means a place and/or building, or portion thereof, which is used or is intended for the care and preparation of human dead for burial and/or cremation. The term includes funeral homes or mortuaries.

**Service, general** means a place and/or building, or portion thereof, which is used or is intended for providing services not otherwise included in any other service type category. The term includes photography studios, weight loss centers, commercial postal services, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, diaper services, barber shops, beauty parlors, and the like.

**Service, medical** means a place and/or building, or portion thereof, which is used or is intended for providing medical services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental clinics, doctor offices, and sports medicine facilities. The term does not include those uses classified as a health care facility.

**Service, professional/administrative** means a place and/or buildings or portions thereof, that is used or is intended to house services involving predominantly administrative, professional, clerical, or similar operations. The term includes law offices, real estate offices, insurance offices, architectural firms, travel agencies, secretarial services, telephone answering services, and the like.

**Vehicle cleaning** means a place and/or building, or portion thereof, that is used or is intended for vehicle cleaning including cleaning, washing, polishing, waxing, and similar activities.

**Vehicle fuel sales** means a place and/or building, or portion thereof, that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels. The term includes the sale of convenience foods and goods, provided it is ancillary to the sale of fuels, and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and the like.

**Vehicle sales and rental** means a place and/or building, or portion thereof, which is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles.

**Vehicle service/repair** means a place and/or building, or portion thereof, which is used or is intended for maintenance, service, and repair of vehicles. Typical services include transmission repair, bodywork and painting, brake repair, vehicle upholstery, tire shop, engine repair and overhauls, and similar activities.

**Veterinary clinic** means a place and/or building, or portion thereof, which is used or is intended for the medical care of animals. A veterinary clinic may include office space, medical labs, appurtenant facilities, and kennels

and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

**Auction Facility** means a building or structure or portion thereof, that is used for or is intended for planned auction sale of items on a scheduled or periodic basis (two or more times per year). Facilities include, but are not limited to auction barns, sheds or other similar type structures used for the intended purpose of conducting the auction. Farmland Preservation designated parcels shall comply with Wis. 91.01(1)(d) or be rezoned out of Farmland Preservation.

### **STORAGE FACILITIES**

**Mini-storage facility** means a place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. The term includes a tract of land used to store vehicles that are not for sale or trade.

**Truck terminal** means a place and/or building, or portion thereof, which is used or is intended for storage of freight for routing or reshipment.

**Warehouse** means a place and/or building, or portion thereof, which is used or is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. The term includes moving and storage facilities. The term does not include fuel tank farms.

### **PUBLIC / SEMI-PUBLIC USES AND SERVICES**

**Airport** means a place and/or building, or portion thereof, which is used or is intended for the landing and takeoff of airplanes, helicopters, similar craft, including all necessary facilities for the housing and maintenance of the same.

**Cemetery** means a place and/or building, or portion thereof, which is used or is intended for burial purposes. Accessory uses include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

**Commercial antennae** means a structure that is used or is intended for transmitting or receiving television, radio, or telephone, or other communication for commercial purposes. The term does not include antennae used for personal use.

**Public safety facility** means any place and/or building, or portion thereof, whether public or non-public, that is used or is intended for housing public safety services. The term includes ambulance services, fire stations, police stations, and the like.

**Recycling center** means a place and/or building, or portion thereof, which is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junkyard.

**Solid waste container site** means a place and/or building, or portion thereof, where local residents can dispose of their solid waste in containers for collection and final shipment to another facility.

**Solid waste transfer station** means a place and/or building, or portion thereof, that is used or is intended for temporary collection of solid waste prior to transport to a processing plant or to final disposal.

**Utility installation** means a place, buildings, and/or structures, or portions thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services.

**Utility installation, major** means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, and the like. The term does not include wind generators or solar energy systems.

**Utility installation, minor** means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, roads, and the like.

**Wind turbine** means a structure that generates, or is intended to generate, electricity by rotating blades attached to a generator.

**Solar energy systems** means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy as defined in Wis Stats. 13.48 (2) (h) 1 g. The definition of “Solar Energy System” does not include solar powered low level light fixtures that are ground or wall mounted, solar powered electric fences, roof mounted solar energy panels of a non-reflective material or any other solar powered units that are designed primarily for personal, private use and are less than seventy-five (75) square feet in size.

**Mobile and radio broadcast services** means antennas, towers and other structures necessary to provide mobile and radio broadcast services in the Town. In addition, definitions contained in Wis Stats. 66.0404 are incorporated herein by reference, for the purpose of this ordinance.

### **COMMUNITY SERVICES/USES**

**Administrative government center** means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, town halls, and the like.

**Community center** means a place and/or building, or portion thereof, which is used or is intended for short-term and intermittent meetings or gatherings of persons, that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term does not include fraternal, social, or civic clubs, lodges, union halls, and the like.

**Educational facility** means a place and/or building, or portion thereof, which is used or is intended for use as a preschool, elementary, junior high, or high school.

**Instructional facility** means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

**Instructional facility-agriculture** means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training and research for farming and/or agricultural related purposes only.

**Worship facility** means a place and/or building, or portion thereof that is used or is intended as a place where persons regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, mosques, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, and rectories. The term does not include day care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

### **RECREATION / SPORTS / ENTERTAINMENT**

**Golf course/driving range** means a place, whether organized for profit or not, that is used or is intended for playing golf.

**Indoor entertainment** means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like. The term does not include uses referred to as gentlemen clubs or adult establishments.

**Indoor sports and recreation** means a place and/or building, or portion thereof, that is used or is intended for indoor recreation. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, weight loss centers, and the like. The term does not include uses referred to as gentlemen clubs or adult establishments.

**Miniature golf** means a place and/or building, or portion thereof that is used or is intended for playing miniature golf.

**Outdoor entertainment** means a place and/or building, or portion thereof, which is used or is intended for outdoor, spectator-type uses or events. The term includes racetracks, motocross courses, sports arenas, and the like.

**Outdoor/indoor shooting range** means a place and/or building, or portion thereof, that is used or is intended for target practice, including archery, pistol, rifle, and shotgun shooting. The term includes trap and skeet clubs and target ranges, and the like.

**Park** means a place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public or by a homeowners' association.

**Stable, commercial** means a place and/or building, or portion thereof, that is used or is intended for keeping eight (8) or more horses which are kept for boarding or hire on trail rides. The term includes commercial stables, riding clubs, and riding instruction facilities.

**Trail** a linear corridor designed to accommodate recreational activities such as biking, hiking, jogging, skating, horseback riding, snowmobiling, and the like. The term includes trailhead facilities including parking, picnicking, bathroom facilities, and the like.

### **ACCESSORY USES**

**Accessory building** means any building that is clearly incidental and subordinate to and customarily found with a principal building or use. All new accessory buildings must adhere to front, rear and side yard set-back requirements. Newly constructed accessory buildings shall be at least 10 feet further from the road right of way than any part of the residential structure. For residences located 300 feet or more from the road ROW, the Town Board has the ability to adjust or waive these standards based on appearance, aesthetic or safety considerations.

**Accessory buildings, commercial** means accessory buildings that are customarily found with commercial uses.  
**Accessory buildings, residential** means accessory buildings that are customarily found with residential uses. The term includes garages, sheds, barns, workshops for non-commercial purposes, and the like.

**Accessory structure** means any man-made structure that does not constitute a principal building or accessory building. The term includes fences, non-commercial antennas, and decks that are not attached to an accessory or principal building.

**Boathouse** means a structure that is used to exclusively house watercraft and related equipment.

**Home occupation** means any occupation, profession, enterprise, or similar activity that is conducted on the premises of a single-family residence as an accessory use. The term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of heavy industry. The term also does not supersede agricultural related uses as defined by Chapter 14.

**Home occupation, Type I** means a home occupation with no more than one (1) non-resident employee that would be compatible in size and scope in a rural residential setting or in a medium density residential setting as defined by performance standards herein described or as may be adopted.

**Home occupation, Type II** means a home occupation with no more than three (3) non-resident employees that would be compatible in size and scope in a rural residential setting as defined by performance standards herein described or as may be adopted.

**Home occupation, Type III - Cottage Industry** means a manufacturing, construction, or service enterprise owned and operated by a resident of the principal dwelling on a lot, but which is not engaged in retail sales, product distribution, or services on the premises, and which does not employ more than five (5) persons on site not residing on the premises.

**Home Occupation, Type IV** means see Section 5.10.18.

**Kennel, private** means a place where dogs are kept and not classified as a commercial kennel.

**Stable, private** means a place where horses are kept for private use and not classified as a commercial stable.

**Temporary dwelling** means a manufactured home that is used as a dwelling for no more than one (1) year, and then only while a permanent dwelling is under construction.

**5.4.6 Dimensional Standards within Districts.**

1. Within each district established in this code, the dimensional standards as contained in Exhibit 3 shall apply.

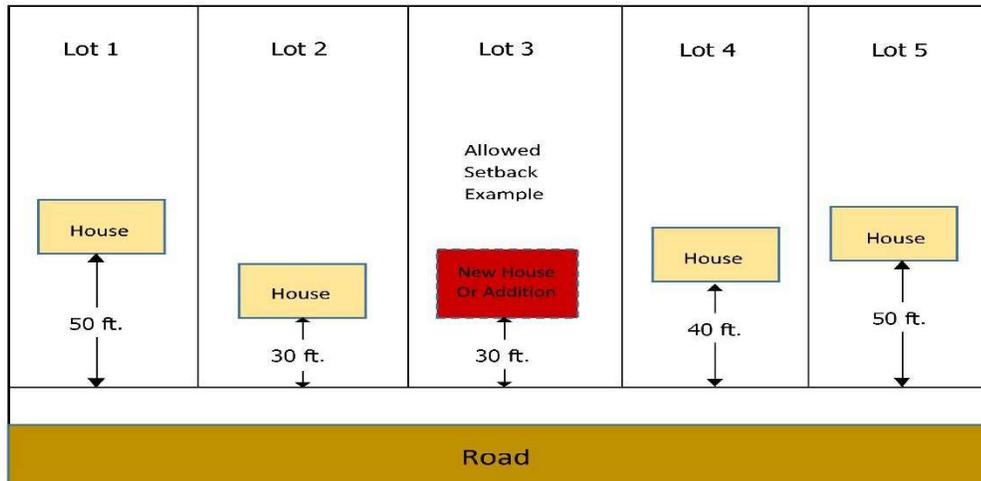
**Exhibit 3. Dimensional Standards**

	R-1	R-2	C-1	A-2	PLI	A-1
Minimum front yard setback on a private road	NA	30'	NA	NA	NA	NA
Minimum front yard setback on a town or county road	50'	NA	50'	50'	50'	50'
Minimum front yard setback on a state road	75'	NA	75'	75'	75'	75'
Minimum side yard setback	10'	10' on either side, with a minimum combined total of 22'	10'	10'	10'	10'
Minimum rear yard setback	10'	25' / 75' shore	10'	10'	10'	10'
Minimum lot size	2 acres*	1/2 acre	1 acre	See §5.5.1	None	2 acres
Maximum lot size	5 acres	None	none	See §5.5.1	None	None
Minimum road frontage for lots	200'	50'	100'	200'	100'	200'
Maximum building height	35 feet	35 feet	35 feet	none	35'	None
Maximum building height for a residence				35'		35'

\* Manufactured home parks are exempt.

2. Notwithstanding the above dimensional standards, no undeveloped parcel between two developed parcels along the same street or road shall have a minimum front setback less than structures on either of adjoining parcels. Additions to existing structures shall be required to maintain current side and rear established setbacks and not have front setback less than the structures on the adjoining parcels (See example below). The Board of Appeals may further vary this regulation in appropriate cases provided that the Board of Appeals shall establish such conditions as will hold the Town harmless from additional requirements improvement damages which might accrue when and if the public road is improved.

**Roadway Setback Allowances**



**Article 5.**  
**A-2 District Supplemental Regulations**

**5.5.1 Density Standards in A-2 District.** Any, tract or parcel of land in common contiguous ownership at the time of the adoption of this provision of the Zoning Ordinance (refer to Base Farm Tract definition), subject to other normally applicable subdivision laws and regulations, hereafter may be subdivided into buildable lots as follows:

1. **Buildable lots.** For the purposes of this section, a buildable lot is defined as a lot on which a building may be constructed, subject to all other applicable standards and regulations.
2. **Existing tracts or parcels in common contiguous ownership (Base Farm Tract).** The number of potential splits for buildable lots shall be based on the acreage of all existing adjacent parcels in common ownership. For this purpose, adjacent parcels are parcels that share a lot line or are directly across the road from each other. (For example, if a landowner has two adjacent parcels, one that is 10 acres and one that is 30 acres, the calculation for allowable lots would be based on 40 acres). The permitted buildable lots may be located on one parcel or distributed between the contiguous parcels in common ownership, so long as they are in conformance with all other applicable standards and regulations.
3. **Existing tracts or parcels 10-acres or less.** Existing tracts or parcels of land 10 acres or less may be subdivided such that the resulting minimum lot size is two (2) acres.
4. **Existing tracts or parcels greater than 10 and less than 25 acres.** Existing tracts or parcels of land greater than 10 and less than 25 acres may be split once so as to create a total of two buildable lots. The minimum lot size of both resulting parcels shall be 2 acres. The resulting parcels of land may not be further subdivided except for open space or agricultural purposes. No buildings are permitted on land subdivided for open space or agricultural purposes, and the minimum lot size for such lots is 2 acres.
5. **Existing tracts or parcels 25 acres or greater.** Existing tracts or parcels of land 25 acres or greater may be subdivided into a combination of “large” and “small” buildable lots as set forth below.
  - a. **“Small” lots.** For this purpose, small lots are defined as having a minimum lot size of two (2) acres and a maximum lots size of five (5) acres.
  - b. **“Large” lots.** For this purpose, large lots are defined as having a minimum lot size of 20 (twenty) acres.
  - c. **Maximum number of buildable lots permitted.** The total number of buildable lots shall be no more than equals one (1) per twenty-five (25) acres of the existing tract or parcel, up to a maximum of four (4) lots. (For example, an existing 80-acre tract of land may be subdivided into no more than three (3) buildable lots).
  - d. **Recording of Remaining Permitted Buildable Lots.** As part of a land division review process, the number of remaining buildable lots (i.e., the total number of buildable lots permitted minus the number of buildable lots included in past or current land divisions) shall be recorded on the plat or certified survey map (CSM).
  - e. **Subdivision of Land for Open Space and Agricultural Purposes.** Any parcel of land may be further subdivided for open space and agricultural purposes provided that the resulting minimum lot size is two (2) acres, No buildings are permitted on land subdivided for open space or agricultural purposes.

**5.5.2 Lot Layout Guidelines.** In determining the design of buildable lots in the A-2 zone the following criteria should be applied:

1. **Clustering.** Clustering of buildable lots may be required by the Plan Commission as a condition to granting any subdivision approval.
2. **Prime Agricultural Soils.** Small lots (2 to 5 acres) should avoid prime agricultural soils, defined as Class I and Class II by the USDA Natural Resources Conservation Service or similar successor agency;
3. **Sensitive Natural Features.** Small lots (2 to 5 acres) should not be created in areas with sensitive natural features such as wetlands, streams, and steep slopes.
4. **Contiguous Open Space.** To the extent reasonably possible, subdivisions shall be approved in a manner that maintains the largest amount of contiguous acreage for open space or agricultural use.

**Article 6.**  
**R-1 District Supplemental Regulations**

- 5.6.1 Open Space Requirements.** Any tract or parcel of land in common contiguous ownership that is 20 acres or greater in size at the time of the adoption of this provision of the Zoning Ordinance must meet the following open space requirements when subdivided.
- a. At least 40 percent of the subdivided area must be set aside as common open space.
  - b. The common open space does not count towards minimum lot size requirements
- 5.6.2 Conditional Uses in the Common Open Space.** The following conditional uses may be permitted by the Plan Commission, in the common open space provided the proposed use shall not adversely impact the rural character of the district and shall be consistent with the overall objectives of the district.
- a. Agricultural uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new agricultural buildings or structures shall not exceed 10,000 square feet.
  - b. Recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed 10,000 square feet.
- 5.6.3 Design Standards for Common Open Space.** Common open space shall comply with the following design standards:
1. **Consistent with Comprehensive Plan Objectives.** The location of common open space shall be consistent with the objectives of the Town Comprehensive Plan.
  2. **Integrated Open Space System.** All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed.
  3. **Rural Character.** Common open space shall, to the greatest extent possible, protect site features identified as having particular value in the context of preserving rural character such as scenic views, ridge tops, wetlands, and the like,
  4. **Natural Features.** Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes. Permitted modifications may include:
    - a. Woodland management.
    - b. Reforestation.
    - c. Meadow management.
    - d. Streambank protection.
    - e. Buffer area landscaping
  5. **Inclusion of Key Natural Features.** All wetlands, floodplains, wildlife habitat areas, slopes over 12 percent shall be included in the common open space.
  6. **Adjacent Existing or Future Open Space.** The common open space shall maximize common boundaries with and connections to existing or future open space on adjacent lands.
  7. **Preservation of Scenic Views.** To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
  8. **Boundaries of Common Open Space.** The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish this objective.
  9. **Lands along Existing Public Streets.** Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

10. **Access to Common Open Space.** Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes. Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.
11. **Exclusion of Lots, Streets, Rights-of-Way, and Parking Areas.** The following areas shall not be included in the calculation of common open space areas:
  - a. Private lot areas.
  - b. Street and highway rights-of-way, public or private.
  - c. Railway and utility rights-of-way.
  - d. Parking areas.

#### 5.6.4 **Ownership and Maintenance of Common Open Space**

To ensure adequate planning for ownership and maintenance of common open space the following regulations shall apply:

1. **Ownership.** The following methods may be used, either alone or in combination, to own common open space. Common open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common open space. Ownership methods shall conform to one or more of the following:
  - a. **Homeowners Association.** Common open space shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:
    - (1) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common open space. Such documents shall be approved as to form by the Town Attorney.
    - (2) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.
    - (3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
    - (4) The organization shall be responsible for maintenance of common open space.
    - (5) The members of the organization shall share equitably the costs of maintaining common open space.
    - (6) The applicant for any cluster subdivision or development proposed to contain common open space shall arrange with the Town Assessor a method of assessment of the common open space which will allocate to each tax parcel in the development a share of the total assessment for such common open space.
    - (7) Written notice of any proposed transfer of common open space by the homeowners association or the assumption of maintenance of common open space must be given to all members of the organization and to the Town at least thirty (30) days prior to such event.
  - b. **Condominium Agreements.** Common open space may be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the Town Attorney and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space shall be held as "common elements" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
  - c. **Fee simple dedication to the Town.** The Town may, but shall not be required to, accept any portion of the common open space, provided that:
    - (1) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
    - (2) Any open space so dedicated shall be accessible to the residents of the Town, if the Town so chooses.
    - (3) The Town or other public agency shall maintain such facilities.
    - (4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

- d. **Dedication of conservation easements to a public agency.** The Town or other public agency acceptable to the Town may, but shall not be required to, accept easements for public use of any portion of the common open space, title of which is to remain in private ownership, provided that:
    - (1) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
    - (2) A satisfactory maintenance agreement shall be reached between the owner and the Town.
    - (3) Lands under a Town easement may or may not be accessible to residents of the Town.
  
  - f. **Dedication of conservation easements to a nonprofit conservation organization.** With the approval of the Town Board, an owner may dedicate conservation easements on any portion of the common open space to a nonprofit conservation organization, provided that:
    - (1) The organization is acceptable to Town.
    - (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
  
  - g. **Ownership retained by the original landowner.** Ownership of common open space and facilities may be retained by the original landowner provided that:
    - (1) The Town and residents of the development shall hold conservation easements on the land protecting it from any further development.
    - (2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
  
  - h. **Other methods acceptable to the Town Board upon recommendation by the Town Attorney.**
2. **Leasing of Common Open Space Lands.** Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
- a. The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
  - b. The common open space lands to be leased shall be maintained for the purposes set forth in this Section.
  - c. The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
  - d. The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.
  - e. Lease agreements shall be recorded in the office of the County Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Town.
3. **Conservation.** Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board upon recommendation of the Town Attorney and duly recorded in the office of the County Register of Deeds.

**Article 7.**  
**A-1 Farmland Preservation Regulations**  
**See Chapter 14 – Farmland Preservation Ordinance**

**Article 8.  
Application Process for Conditional Uses**

**5.8.1 Generally.**

The Plan Commission shall make recommendations to the Town Board for decision consistent with this part. In this sub-section, the following terms apply:

“Conditional Use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the town, but does not include a variance.

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

**5.8.2 Application and Review Procedure.**

The following procedure shall be followed:

- a. **Submittal of application.** The applicant shall submit a completed application and site plan to the Zoning Administrator at least 30 days prior to the established monthly meeting date of the Plan Commission along with the appropriate fee as listed in the Town of Nepeuskun Annual Fee Schedule.
- b. **Determination of completeness.** Within ten (10) business days of submittal, the zoning administrator shall determine if the application is complete. If the application is deemed incomplete it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.
- c. **Placement of public notice.** Following a determination of completeness, the Plan Commission Secretary shall publish public notice.
- d. **Public hearing.** Allowing for proper notice, the Plan Commission shall hold a public hearing to review the application and make a recommendation to the Town Board.
- e. **Decision.** Within forty (40) days of the public hearing, the Town Board shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include findings in support of its decision and, if approved, conditions as may be imposed.
- f. **Applicant notification.** Within five (5) days following the decision, the Board shall mail the applicant the original (signed) copy of the decision and retain a (signed) copy for the public record.

**5.8.3 Imposition of Conditions.**

In approving the conditional use, the Town Board may impose such conditions as may be necessary to grant approval. The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration or renewal. The applicant and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied and must be supported by substantial evidence. The Town's decision to approve or deny the permit must be supported by substantial evidence. The applicant must provide information to allow for the review of such conditions, which relate to the following:

- a. reduction of intensity or scale of the project,
- b. require landscaping, buffers, and/or fencing to minimize effects to surrounding properties and/or the general area,
- c. require the developer to provide appropriate on-site and off-site infrastructure,
- d. modify the architectural design and/or type of construction,
- e. post bonds and sureties,
- f. water supply and waste disposal systems,
- g. limit hours, modes of operation & operational procedures,
- h. attractive signage,
- i. acceptable outdoor lighting to contain “light splash”,
- j. adequate, safe parking,
- k. loading and unloading location and hours
- l. other actions supported by substantial evidence intended to mitigate, minimize, or avoid negative effects of the project.

**5.8.4 Expiration of Approval.**

A conditional use permit shall expire one (1) year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**5.8.5 Revocation.** The Town may revoke a conditional use permit when it determines that the property owner is in violation of the conditional use permit. The basis for permit termination or revocation must be supported by substantial evidence.

**5.8.6 Limitations.**

The Town Board shall not have the power to approve or disapprove conditional uses in areas such as shorelands, where applicable statutes of the State of Wisconsin withholds such power from town boards.

**5.8.7 Review Criteria.**

In reviewing an application for a conditional use permit, the Town Board shall review the following information required by the applicant and at a minimum consider the following:

- a. suitability of the proposed site for the proposed use
- b. compatibility with surrounding parcels
- c. effects on local services
- d. effects on utilities
- e. effects on public health, safety, and welfare
- f. presence of anticipated hazards
- g. existing and proposed structures
- h. architectural plans
- i. on-site and off-site traffic circulation

**5.8.8 Special Requirements for Aggregate and Soil Extraction Operation.** (See Section 5.4.5, for definition)

In addition to receiving a conditional use permit from the Town, the applicant shall also obtain a non-metallic reclamation permit as required by County Ordinance, Chapter 20.

**5.8.9 Special Requirements for Intensive Animal Production.**

1. **Conditional Use Permit for New and Expanded Intensive Animal Production Facilities.** A conditional use permit is required for all new intensive animal production facilities, as defined in this chapter. In addition, a conditional use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
  - a. The applicable size threshold set forth in the definition of intensive animal production
  - b. The maximum number previously approved or, if no maximum number was previously approved, a number that is 20 percent higher than the number kept on (May 1, 2006 or on the effective date of the license requirement, whichever date is later)
2. **Standards for Issuing a Permit.** The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code, inclusive of all appendixes and worksheets and any future amendments to this chapter, except as may be noted in this chapter, are incorporated by reference in this chapter, without reproducing them in full. Specific setback requirements for intensive animal production facilities, in accordance with ATCP 51, are as follows:
  - a. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.
  - b. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.
  - c. A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.
3. **Application Process.**
  - a. A livestock operator must complete the application form and worksheets prescribed by ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance.

- b. The operator must file four (4) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.
  - c. A non-refundable application fee of \$1000 payable to the Town of Nepeuskun shall accompany an application for the purpose of offsetting the Town's costs to review and process the application.
  - d. Pursuant to ATCP 51.30 (5), within forty-five (45) days after a political subdivision receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the political subdivision shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
  - e. Pursuant to ATCP 51.30 (6), within fourteen (14) days after a political subdivision notifies an applicant that the application is complete, the political subdivision shall notify adjacent landowners of the application. The political subdivision shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.
  - f. Upon determination of completeness the town clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a class 2 notice the last of which is at least one (1) week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.
  - g. Pursuant to ATCP 51.32, a political subdivision shall grant or deny an application within ninety (90) days after the political subdivision gives notice that the application is complete under paragraph 2 above. The Town may extend this time limit for good cause, including any of the following:
    - (1) The Town needs additional information to act on the application.
    - (2) The applicant materially modifies the application or agrees to an extension.
  - h. A political subdivision shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the political subdivision will act on the application.
  - i. A political subdivision must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.
  - j. If the political subdivision approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
  - k. The Town Clerk as required by ATCP 51.36 shall do all of the following within thirty (30) days of the Town's decision on the application:
    - (1) Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town's decision.
    - (2) File with the Department a copy of the final application granted or denied, if the Town has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
  - l. If the town has withdrawn a local approval under this ordinance, a copy of the Town's final notice or order withdrawing the local approval will be filed with the Department of Agriculture, Trade and Consumer Protection
4. **Transferability of Permit.** A permit and the privileges granted by the permit run with the land approved under the permit and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application. The Town requests that upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.
5. **Expiration of Permit.** A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after issuance of permit:
- a. Begin populating the new or expanded livestock facility.

- b. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
  
- 6. **Permit Terms and Modifications.** A permit and the privileges granted by a permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a permit. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the political subdivision shall not withhold authorization for those changes. A violation of the permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the permit.
  
- 7. **Town Approval.** If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the ordinance and those imposed by the Town Board; The Town Board shall grant the conditional use permit. Any condition imposed must be related to the purpose of this ordinance and be based on substantial evidence. The requirements and conditions described, must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration or renewal. All requirements and conditions established by the Town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The Town's decision to approve or deny the permit must be supported by substantial evidence.

**Article 9.  
Site Plan Review**

- 5.9.1 Generally.** The Plan Commission shall review site plans for all new uses, developments, buildings, structures, and signs.
- 5.9.2 Establishment and Purpose.** The Town of Nepeuskun hereby establishes Site Plan Review standards to promote stability of property values; to promote compatible development; to foster the attractiveness of the community as a place to live; to preserve the rural character of the community; to preserve the quality of the built environment; and to uphold the goals, strategies and guidelines of the comprehensive plan.
- 5.9.3 Compliance.** No new use, development, building, structure, or sign shall hereafter be erected until the Plan Commission has reviewed and approved site plans for the site, buildings, structures, or signs. Accessory buildings with a cost or value of less than \$40,000 are exempt from this requirement. The Plan Commission shall not approve any plans unless they find after viewing and study of the application that the use, site, building, structure, or sign, as planned will not violate the intent and purposes of this Chapter. Only after the Plan Commission Chairperson has signed the approved plan(s), signifying support of the Plan Commission, may appropriate permits be granted. Modification, expansion, or renovation of existing uses and structures does not require site plan approval.
- 5.9.4 Application and Review Procedure.**  
The following procedure shall be followed:
1. **Submittal of application.** The applicant shall submit a completed application and site plan to the Zoning Administrator at least 30 days prior to the established monthly meeting date of the Plan Commission along with the appropriate fee as listed in the Town's Annual Fee Schedule. An application for site plan approval shall also serve as an application for a zoning permit.
  2. **Determination of completeness.** Within ten (10) business days of submittal, the Zoning Administrator shall determine if the application is complete and consistent with the provisions set forth in Article 9 of this Chapter. If the application is deemed incomplete or inconsistent it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.
  3. **Decision.** Within forty (40) days of the determination of completeness, the Plan Commission shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include findings in support of its decision and, if approved, conditions as may be imposed.
  4. **Applicant notification.** Within five (5) days following the decision, the Zoning Administrator shall issue a zoning permit, mail the applicant the original (signed) copy of the decision, and retain a (signed) copy for the decision for public record.
- 5.9.5 Site Plan Review Principles and Standards.** To implement the purposes set forth in Section 5.9.2, the Plan Commission and staff shall review the site, existing and proposed structures, neighboring uses, provision and utilization of landscaping and open space, parking areas, driveway locations, loading and unloading (in the case of commercial uses), highway access, traffic generation and circulation, drainage, septic and water systems, and the proposed operation. The Plan Commission will approve said site plans only after determining that:
1. The proposed use(s) conforms to the uses permitted in that zoning district.
  2. The site plan conforms to the development and use standards set forth in Article 10 of this Chapter and is consistent with all other provisions of this Chapter.

**Article 10.  
Development and Use Standards**

**5.10.1 Building Grade.**

The finished grade for the principal structure shall be at least twelve (12) inches above the crown of any adjacent public road at the center of said structure. Where an alternate elevation would better suit the existing or proposed use surrounding the site, the zoning administrator can set an alternative finished grade which shall be noted on the zoning permit.

**5.10.2 Roads (Public). Roadways (Private).**

1. Roads and roadways shall comply with the following standards:
  - a. Roadways should follow existing contours to minimize the extent of cuts and fills.
  - b. Roadways should not be located in open fields.
  - c. Roads serving residential developments, subdivisions, or clusters of certified survey lots should be designed to provide continuity with the existing road system and with potential future roads serving adjoining parcels.
  - d. Where certified survey lots are created, sufficient right-of-way access to "interior" portions of large land holdings should be reserved.
  - e. All roads shall be built to Town standards.

**5.10.3 Driveways.**

Driveways must comply with Chapter 13: Driveway and Culvert Ordinance.

**5.10.4 Common Driveways.**

- a. **Generally.** Wherever possible, common driveways shall be used to limit the number of access points onto town, county, and state roads.
- b. **Maximum number of units served.** A common driveway may serve up to four (4) residential units.
- c. **Maintenance agreement required.** All lots using a common driveway shall be covered by a driveway maintenance agreement as approved by the Town.

**5.10.5 The Residential Building Site in any District.**

The building site shall comply with the following:

- a. Maximum total lot disturbance: 50 percent of lot area or 25,000 square feet, whichever is less. Site disturbance shall include all areas disturbed for the purpose of constructing buildings and structures as well as all graded areas and lawns. The total shall include disturbed areas both inside and outside the building envelope.
- b. Building envelopes should be selected that do not permit rooflines to protrude above the crest of hilltops.
- c. Building envelopes shall be located on the edges of fields or parcels.
- d. Building envelopes shall not encompass wetlands, heavily treed areas, floodplains, and other environmentally sensitive areas.
- e. Building envelopes shall not include areas with slopes in excess of 15 percent.
- f. Existing vegetation shall be preserved in areas where disturbance is not necessary outside the building envelope.
- g. Where landscaping is proposed, native species shall be incorporated in the design.
- h. Where building envelopes are located in woodlands, a treed area of at least thirty (30) feet between the building envelope and the common drive or roadway should be retained.
- i. On property bordering streams and creeks, not more than twenty-five (25) linear feet of shoreline per lot shall be disturbed. This includes docks, piers, and beach areas.

**5.10.6 Residential Design Principles in any District.**

In designing new residential projects the following design principles shall be followed:

- a. Minimize clearing and disruption of the landscape and take advantage of the attractive way that town roads are often lined with trees.
- b. Preserve man-made and natural features. Traditional landscape features, (fences, tree lines, meandering creeks, streams), define outdoor areas in a natural way and create corridors for wildlife movement. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of a field.

- c. Place buildings and structures either at the edges of fields or parcels or in cleared areas next to fields. Septic systems and drainage fields, however, may be placed in fields.
- d. Use existing vegetation and topography to buffer and screen new development.
- e. Minimize clearing vegetation at the edge of the road, clearing only as much as necessary to create driveway access with adequate sight distance. Use curves in the driveway design to add to the screening of the building.
- f. Locate buildings so that they do not protrude above treetops and crest lines of hills seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selectively cutting small trees and lower branches of larger trees, rather than clearing large areas or removing mature trees.
- g. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g. walkout basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
- h. Use best management practices for erosion and sediment control.

**5.10.7 Residential.**

No more than one (1) residential building shall occupy any single parcel or lot. When an old residence is being replaced by a new residence on the parcel, the old residence must be removed within a six (6) month period of receiving the occupancy permit for the new residence.

**5.10.8 Fences.**

Fences are permitted on or near property lines. All fences must comply with the minimum requirements for fences set forth in Chapter 90, Wisconsin Statutes.

**5.10.9 Farm Animals.**

1. **Agricultural Districts (A2).** Farm animals in the A-2 district shall be allowed consistent with the tables in this section and in accordance with the Winnebago County Livestock Waste Management Ordinance. The number of permitted animals per acre shall be based on the acreage of all adjacent parcels in common ownership (referred to in Exhibit 4 as “Parcel or Tract”) or leased through an agreement with adjacent parcel owners. The lease agreement must specify a period of time the agreement will be in effect and be filed with Winnebago County and the applicant is issued a Waste Management permit for livestock waste disposal. For this purpose, adjacent parcels are parcels that share a lot line or are directly across the road from each other. In addition, parcels can only be subject to one lease agreement that allows livestock waste disposal.

**Exhibit 4.**

Parcel or Tract size	Requirement
Less than 2 acres	Not permitted (except hen chickens)
2 acres to 34.99 acres	one animal unit per acre
35 acres and larger	no restriction for general farming purposes

2. **Farm animals in the R-1 and C-2 districts** Farm animals may be allowed in the R-1 or C-2 district on parcels over 2 acres as a conditional use, consistent with the density regulations set forth in Exhibit 5.
3. **Animal Unit Calculation.** For the purpose of these regulations, an “animal unit” is defined in the table below. For animal types not listed in the following table, the Town shall determine equivalency to animal units as the DNR would in NR 243.

**Exhibit 5. Number of Animal Types Equivalent to 1,000 Animal Units and Animal Equivalency Factors**  
*DNR regulation NR 243*

Number Equivalent to 1,000 Animal Units	Subcategory of Animal Types	Animal Equivalency Factor
700	DAIRY CATTLE: Milking and dry cows	1.4
910	Heifers (800 to 1,200 lbs)	1.1
1,670	Heifers (400 to 800 lbs)	0.6
5,000	Calves (under 400 lbs)	0.2
1,000	BEEF CATTLE: Steers or cows (1,000 lbs to Mkt)	1.0
1,250	Steers or cows (600 to 1,000 lbs)	0.8
2,000	Calves (under 600 lbs)	0.5
700	Bulls	1.4
2,500	SWINE: Pigs (55 lbs to mkt)	0.4
10,000	Pigs (up to 55 lbs)	0.1
2,500	Sows	0.4
2,000	Boars	0.5
10,000	SHEEP: Per animal	0.1
500	HORSES: Per animal	2.0
5,000	DUCKS: Per bird (wet lot)	0.2
100,000	Per bird (dry lot)	0.01
100,000	CHICKENS: Layers	0.01
200,000	Broilers	0.005
55,000	TURKEYS: Per bird	0.018
1,000	COMBINATION ANIMAL UNITS: Calculated Total	

**5.10.10 Outdoor Lighting – Non-commercial.**

Outdoor lighting installations shall be permitted provided they are no closer than three (3) feet to an abutting property line and they are shielded or positioned so that no excessive glare or illumination is cast upon the adjoining property.

**5.10.11 Outdoor Lighting – Commercial.**

Outdoor lighting on commercial lots, whether conforming or nonconforming, shall comply with the following:

- a. **Height of fixtures.** No light fixture shall exceed twenty-five (25) feet in height.
- b. **Design.** All fixtures shall be of a cut-off design (i.e., shall not emit light at an angle greater than 90 degrees from vertical).
- c. **Shielding.** All light 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 the fixture is located.

**5.10.12 Private Ponds**

All man-made private ponds shall comply with the following:

- a. **General design.** The side slope of a manmade pond must provide no greater than a 1-foot vertical change for every 3-feet of horizontal change and this ratio must be maintained until the slope extends 6 vertical feet below the high-water mark.
- b. **Proximity to specified objects.** Private ponds shall be located no closer than forty (40) feet to an adjoining property boundary, no closer than fifty (50) feet to any septic system drainfield, and no closer than twenty-five (25) feet from a septic tank or holding tank.

- c. **Outlets.** Outlets shall be designed so as not to concentrate runoff onto another person's property or to cause erosion.
- d. **Distance from Public roadways.** The manmade pond setback from a public roadway increases two (2) times for every foot of pond depth plus the normal roadway set back distance for the zoning district. (Example: a 20-foot-deep pond would need to be 140 feet from the public road centerline - 2 times 20' plus 100' centerline setback).
- e. **An approved reclamation plan for non-metallic mining are exempt from these provisions.**

**5.10.13 Campgrounds.**

Please refer to DHS 178. Also, Wis. Stats 254.47.

**5.10.14 Manufactured Homes Anchoring.**

Manufactured homes that are not on a permanent foundation shall be placed and anchored to prevent flotation, collapse, or lateral movement due to flooding or winds. Manufactured homes shall be anchored according to the following specifications:

- a. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long shall require one (1) additional tie per side.
- b. Frame ties shall be provided at each corner of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long shall require one (1) additional tie per side.
- c. All components of the anchoring system shall be capable of carrying 4,800 pounds.

Manufactured Home Parks are addressed in Section 5.10.18.

**5.10.15 Home Occupation, Type I**

A Type I home occupation shall comply with the following:

- a. **Validity of use.** The individual primarily responsible for the home occupation must reside in a dwelling unit on the parcel.
- b. **Location.** The home occupation shall occur entirely within the dwelling unit.
- c. **Employees.** No more than one (1) nonresident employee may work on the property. (Note: There is no restriction on the number of people that may be employed and that work off-site.)
- d. **Exterior character of the dwelling unit.** The exterior character of the dwelling unit shall not be substantially altered to accommodate the home occupation.
- e. **Storage of materials.** Exterior storage of materials or equipment is prohibited.
- f. **Signs.** A sign not exceeding eight (8) square feet may be placed on the parcel to identify the business.
- g. **Retail sales.** The indoor display or retail sales of those products manufactured or otherwise made on the premises are permitted. All other on-site sales are prohibited.
- h. **Lot size.** The minimum lot size is two (2) acres.
- i. **Parking.** No parking facilities shall be allowed within any side or rear yard setback areas or within twenty-five (25) feet of any road or highway right-of-way.

**5.10.16 Home Occupation, Type II.**

A Type II home occupation shall comply with the following:

- a. **Validity of use.** The individual primarily responsible for the home occupation must reside in a dwelling unit on the parcel.
- b. **Location.** The home occupation shall occur entirely within the dwelling unit and/or an accessory building not exceeding 750 square feet.
- c. **Employees.** No more than three (3) nonresident employees may work on the property. (Note: There is no restriction on the number of people that may be employed and that work off-site.)
- d. **Exterior character of the dwelling unit.** The exterior character of the dwelling unit shall not be substantially altered to accommodate the home occupation.
- e. **Storage of materials.** Exterior storage of materials or equipment is prohibited.
- f. **Signs.** A sign not exceeding eight (8) square feet may be placed on the parcel to identify the business.
- g. **Retail sales.** The indoor display or retail sales of those products manufactured or otherwise made on the premises are permitted. All other on-site sales are prohibited.
- h. **Lot size.** The minimum lot size is two (2) acres.

- i. **Parking.** No parking facilities shall be allowed within any side or rear yard setback areas. Or within twenty-five (25) feet of any road or highway right-of-way.

**5.10.17 Home Occupation, Type III – Cottage Industry**

- a. **Validity of use.** The individual primarily responsible for the home occupation must reside in a dwelling unit on the parcel.
- b. **Location.** The home occupation shall occur entirely within the dwelling unit and/or an accessory building. No buildings except residences shall be within fifty (50) feet of a side or rear property line, and no building except a roadside stand shall be located within the front yard of the property.
- c. **Employees.** No more than five (5) nonresident employees may work on the property. (Note: There is no restriction on the number of people that may be employed and that work off-site.)
- d. **Storage of materials.** Exterior storage of materials or equipment is prohibited.
- e. **Signs.** A sign not exceeding eight (8) square feet may be placed on the parcel to identify the business.
- f. **Retail sales.** On-site retail sales are prohibited.
- g. **Lot size.** The minimum lot size is two (2) acres.
- h. **Parking.** No parking facilities shall be allowed within any side or rear yard setback areas. Or within twenty-five (25) feet of any road or highway right-of-way.
- i. **Noise.** No part of any building used as an agricultural commerce enterprise where repairs to equipment and machinery are performed for hire, or where the fabrication of parts, equipment, or other products for sale occurs, or involves in any other way hammering or other work causing loud or unusual noise, fumes or odors, shall be located within two hundred (200) feet of any R1–Residential District.

**5.10.18 Home Occupation, Type IV.** A Type IV home occupation shall comply with the following:

- a. **Validity of use.** The individual primarily responsible for the home occupation must reside in a dwelling unit on the parcel.
- b. **Location.** The home occupation shall occur entirely within the dwelling unit and/or an accessory building.
- c. **Employees.** No more than one (1) nonresident employee may work on the property. (Note: There is no restriction on the number of people that may be employed and that work off-site.)
- d. **Exterior character of the dwelling unit.** The exterior character of the dwelling unit shall not be substantially altered to accommodate the home occupation.
- e. **Storage of materials.** Exterior storage of materials or equipment is prohibited.
- f. **Signs.** A sign may not be placed on the parcel to identify the business. There shall be no exterior evidence that a building is being used for any purpose other than a dwelling or an accessory structure.
- g. **Retail sales.** The indoor display or retail sales of those products manufactured or otherwise made on the premises are permitted. All other on-site sales are prohibited.
- h. **Lot size.** There is no minimum lot size.
- i. **Parking.** No parking facilities shall be allowed within any side or rear yard setback areas or within twenty-five (25) feet of any road or highway right-of-way.
- j. The home occupation shall not cause any odor, dust, smoke, vibration, noise, runoff, heat, glare, or electromagnetic interference, which can be detected at, or beyond, the property line.

**5.10.19 Manufactured Home Park.** Manufactured Home Parks shall comply with the following:

- a. **Site size.** Each site to accommodate a manufactured home shall contain not less than 5,000 square feet with a minimum width of fifty (50) feet.
- b. **Parking.** Each site to accommodate a manufactured home shall contain one (1) parking space upon which the manufactured home shall be situated and one (1) automobile parking space which shall be paved with concrete or bituminous material.
- c. **Internal access.** There shall be a system of private roadways which are at least twenty-four (24) feet wide and paved with concrete or bituminous material. Such road system shall provide access from each and every manufactured home and automobile parking space within such manufactured home park to the public road.
- d. **Limitation on accesses.** A manufactured home park shall not have more than two (2) points of ingress/egress onto any public road.

e. **Setbacks and separation.**

- (1) Each manufactured home site shall be separated from all other manufactured home sites, 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 5-foot setback from an access driveway; provided, however, that such 5-foot setback shall apply to the longest manufactured home to be accommodated within such park.
- (2) All manufactured home park maintenance, storage areas or facilities, and sewage treatment facilities shall be screened from all dwelling lots, internal streets, and public roads by manmade screens or natural plant materials.
- (3) A minimum of ten (10) percent of the gross manufactured home park area or 1,000 square feet per dwelling unit, whichever is larger, shall be provided for outdoor recreation. This recreation space shall be suitable for outdoor recreational activity and shall be easily accessible to all units. The Town reserves the right to accept a fee in place of the land area should the town deem appropriate based on the recommendation of prior planning efforts.
- (4) No manufactured home shall be located less than fifty (50) feet from any front, side, or rear yard line of the lot or parcel.
- (5) No manufactured home shall be located less than fifty (50) feet from any maintenance, storage areas or facilities, and sewage treatment facilities if present.
- (6) There shall be a maintained vegetated buffer, not less than twenty (20) feet in width, within any yard area not fronting on a public road.
- (7) Where the property fronts on a public road or highway, within the required yard area at least 50 percent of the length of the frontage on said public road shall be planted and maintained with a vegetated buffer.
- (8) No manufactured home or other structures, or parking areas, shall be located within one hundred (100) feet of a stream edge or any wetland as defined by state or federal law. With the exception of stream crossings, no roadways shall be located within one hundred (100) feet horizontal distance from a stream edge or any wetland as defined by state or federal law.

f. **Maintenance.** The manufactured home park owner shall be responsible for the maintenance of all park facilities, including areas designated as open space, recreation areas, landscaping, streets, privately owned sewage disposal and water supply systems, and solid-waste collection and storage facilities. Maintenance provisions shall be addressed through the conditional use permit process.

g. **Installation.**

- (1) All manufactured home tow bars and hitches which are designed to be removable at the time of installation shall be removed in accordance with the manufacturer's instructions when the dwelling is sited.
- (2) Each dwelling within the manufactured home park shall have the space underneath the dwelling enclosed by skirting constructed of fire-resistant material.
- (3) Where an individual manufactured home lot abuts a front yard of the manufactured home park or a side or rear yard that borders a public road or highway, said manufactured home shall be sited in a manner so that the longer side of the manufactured home is parallel to or nearly parallel to the public road or highway right-of-way line.

h. **Office.** Each manufactured home park shall maintain an office where a register shall be kept for the registration of all occupants, which register shall be open to County or Town officials for inspection.

i. **Compliance with other laws.** All lots must be developed and duly recorded pursuant to state and Chapter 18 of the Winnebago County Subdivision Ordinance. Unsewered lots must comply with Chapter ILHR 85 of the Wisconsin Administrative Code. All other aspects of the manufactured housing community shall comply with applicable state regulations.

**5.10.20 Cemeteries.**

All cemeteries established after the adoption date of this code shall comply with the following standards:

- a. A cemetery shall have at least fifty (50) double burial plots measuring at least 10' by 10' to accommodate two (2) adult burials measuring 37" x 93" x 6'.
- b. Burial plots shall not be located in the floodplain or in wetland areas.
- c. The cemetery shall have a public access road to its outside boundary.
- d. The cemetery shall be protected from the grazing of farm animals.
- e. Burial plots shall not be located within fifty (50) feet of a public road right-of-way.

- f. A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot.
- g. The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.
- h. Each burial plot shall have access to a private drive at no greater distance than five (5) lots apart.

**5.10.21 Accessory Uses.**

- 1. **Generally.** Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal structure is 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; employees and owner's itinerant agricultural laborer's quarters not for rent; private swimming pools; and private emergency shelters.
- 2. **Accessory use location.** Unless otherwise specified in other sections or granted by variance, accessory uses and detached accessory structures are permitted within the buildable area or in the side or rear yard only. They shall be ten (10) or more feet from the principal structure and any lot line. For non-agricultural uses, structures shall not occupy more than 20 percent of the rear or yard area of the site.

**5.10.22 Farm Buildings.** Farm buildings and other out-buildings exceeding 120 square feet (cumulative area) shall only be allowed as an accessory use to a residence. For parcels exceeding thirty-five (35) acres, farm buildings and other out-buildings are allowed as a conditional use when a residence is not located on the premises.

**Article 11.**  
**Nonconforming Uses, Structures, and Lots**

**5.11.1 Generally.**

Within the various zoning districts established by this chapter, there may exist lots, structures, uses, signs, and other things which were legally created, built or established, but with the adoption of this chapter, or amendment, are now inconsistent with the adopted regulations for that district. This part describes how these nonconformities may be continued or made to comply. Please note that uses, structures and lots within the Winnebago County Shoreland Area are subject to the most restrictive town or county standards.

**5.11.2 Nonconforming Uses.**

A nonconforming use of land may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such use shall be enlarged, increased, or expanded to occupy a greater area than was occupied at the effective date of the adoption or the amendment creating such nonconformity.
- b. No such use shall be moved in whole or in part to any other portion of the lot that was not occupied by said use at the effective date of adoption or the amendment creating such nonconformity.
- c. If the nonconforming use is discontinued for a period of twelve (12) months, any future use of the building, premises, structure, or fixture shall conform to this chapter (See 62.23(7)(h) Wis. Stats.).

**5.11.3 Nonconforming Lots.**

An existing nonconforming lot may be used for any use permitted in the district, provided the lot can comply with all other applicable regulations. Exceptions to the regulations are for parcels in existence prior to December 21, 2010 and include the following:

- a. Minimum of 2 acres for A-1 and A-2 and ½ acres for R-1 and R-2.
- b. Minimum road frontage requirement of 200 feet.
- c. Any other exceptions stated elsewhere in this code or by Town and County approved covenants.

The maximum area accommodating enclosed structures shall not exceed 25% of the total lot area provided a POWTS (privately owned wastewater treatment system) and well has been approved by Winnebago County and meet applicable rules and regulations. Structures shall meet all other applicable requirements of the zoning district with the exception of 5.11.3 a-c listed above.

**5.11.4 Nonconforming Structures.**

It is the intent of this section to allow an existing nonconforming structure subject to the provisions of this section. All nonconforming structures shall be allowed ordinary maintenance and repair, including but not limited to, the following:

- \* Shingle or similar roof replacement.
- \* Window and door replacement.
- \* Cosmetic treatments for exterior walls.
- \* Installation of insulation, not involving structure demolition.
- \* Crack patching and waterproofing of foundation walls.
- \* Cosmetic treatments to interior walls, ceilings and floors.
- \* Replacement or maintenance of mechanical or utility systems.
- \* Temporary alterations done under emergency conditions to protect life or property.

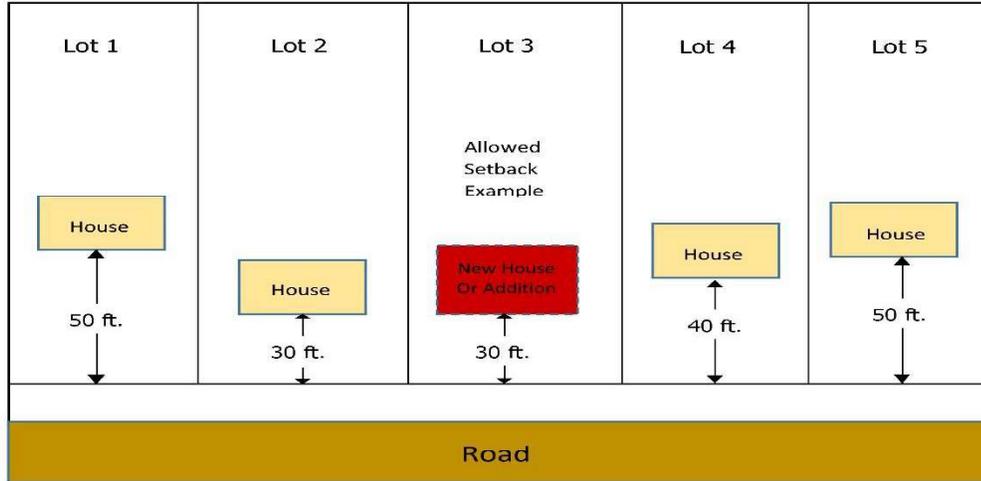
A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in any way to increase its nonconformity. In other words, building/remodeling could occur to the existing nonconformity. For example, should a nonconforming structure be located within 10 feet of a property boundary (a nonconforming distance), the structure could be remodeled, but **could not** be expanded any closer than 10 feet to the property line. Where nonconformities do not exist, the building or alterations of structures must meet set back requirements
- b. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district into which it is moved.
- c. Should such structure be substantially destroyed or damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation it may be reconstructed or repaired to the size, subject to subd. d., location, and use that it had immediately before the damage or destruction occurred (See 62.23(7)(hc)1 Wis. Stats).

- d. The size of a reconstructed or repaired structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements (See 62.23(7)(hc)1 Wis. Stats).

Notwithstanding the above dimensional standards, no undeveloped parcel between two developed parcels along the same street or road shall have a minimum front setback less than structures on either of adjoining parcels. Additions to existing structures shall be required to maintain current side and rear established setbacks and not have front setback less than the structures on the adjoining parcels (See example below). The Board of Appeals may further vary this regulation in appropriate cases provided that the Board of Appeals shall establish such conditions as will hold the Town harmless from additional requirements improvement damages which might accrue when and if the public road is improved.

**Roadway Setback Allowances**



**5.11.5 New Equipment.**

The Board of Appeals may allow the substitution of new equipment if such equipment will reduce the incompatibility with the surrounding area.

**5.11.6 Use Substitutions.**

1. **Generally.** Following a public hearing, the Board of Appeals may permit a property owner to substitute one (1) nonconforming use for another, provided the new nonconforming use is less intrusive to the surrounding properties.
2. **Imposition of conditions.** In approving the substitution, the Board of Appeals may impose such conditions and special requirements it deems appropriate.
3. **Status of original use.** Once the Board of Appeals approves the substitution of a more restrictive nonconforming use for an existing nonconforming use, the existing nonconforming use shall lose its status as a nonconforming use.
4. **Expiration of approval.** A substitution permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**5.11.7 Unsafe Conditions, Ordinary Maintenance.**

Nothing in this chapter shall prevent a property owner from conducting ordinary maintenance or from maintaining the structure in a safe condition.

**5.11.8 Treatment of a Nonconforming Use Under Special Circumstances.**

A nonconforming use, regardless of its duration, may be prohibited or restricted if it also constitutes a public nuisance or is harmful to public health, safety, or welfare.

**5.11.9 Reason to Terminate a Nonconforming Use.**

If a property owner makes an illegal change in use to a nonconforming use, the Town may terminate the entire nonconforming use. (Note: This provision is supported by case law.)

**Article 12.  
Variances**

**5.12.1 Generally.**

The Board of Appeals shall consider variance applications and render a decision consistent with this part.

**5.12.2 Basis of Decision for Dimensional Variances.**

The Board shall only grant a *dimensional* variance when the evidence shows and a finding can be made that each of the following conditions exist:

- a. The parcel in question could be used for a use permitted in the zoning district in which it is located, but for a dimensional standard contained in this chapter.
- b. There is a genuine hardship on the applicant in complying with the dimensional standards as distinguished from a mere inconvenience.
- c. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
- d. The variance is the minimum necessary to afford relief from the hardship.
- e. The conditions on which the request for a variance is based are unique to the property and are not generally applicable to other property in the district.
- f. The hardship does not result from the actions of the applicant or a previous property owner.
- g. The variance is the only option available to the applicant to afford relief from the hardship.
- h. The variance does not deviate from the overall intent of the zoning district or the comprehensive plan.

**5.12.3 Basis of Decision for Use Variances.**

The Board shall only grant a *use* variance when the evidence shows and a finding can be made that each of the following conditions exist:

- a. The applicant is the original owner of the property at the time this chapter, or any amendment thereto, is alleged to have created the hardship.
- b. The application of this chapter, or amendment thereto, removed all economic value from the property.
- c. The property had some economic value prior to the effective date of this chapter, or amendment thereto.
- d. The variance is the minimum necessary to return some economic value to the property.
- e. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
- f. The hardship does not result from the actions of the applicant or a previous property owner.
- g. The variance is the only option available to the applicant to afford relief from the hardship.

**5.12.4 Limitations on Issuing a Variance.**

The following actions shall not be allowed by a variance:

- a. expansion of a nonconforming use
- b. modification to lot or other requirements so as to increase the permitted density or intensity of use.

**5.12.5 Application and Review Procedure.**

The following procedure shall be followed:

- a. **Submittal of application.** The applicant shall submit a completed application and site plan to the Zoning Administrator at least 30 days prior to the established meeting date of the Board of Appeals along with the appropriate fee as listed in the Town's Annual Fee Schedule.
- b. **Determination of completeness.** Within ten (10) business days of submittal, the Chairman of the Board of Appeals shall determine if the application is complete. If the application is deemed incomplete it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.
- c. **Placement of public notice.** Following a determination of completeness, the Town Clerk shall publish public notice.
- d. **Public hearing.** Allowing for proper notice, the Board of Appeals shall hold a public hearing to review the application.

- e. **Decision.** Within forty (40)() days of the public hearing, the Board of Appeals shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.
- f. **Applicant notification.** Within five (5) days following the decision, the Board of Appeals shall mail the applicant the original (signed) copy of the decision and retain a (signed) copy for the public record.
- g. **Additional procedural steps.** If the Board of Appeals grants the variance, the applicant shall then follow the appropriate review procedures as may be required.

**5.12.6 Imposition of Conditions.**

In approving a variance, the Board of Appeals may impose such conditions and restriction as may be necessary to grant approval.

**5.12.7 Effect of Approval.**

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed.

**5.12.8 Expiration of Approval.**

The variance shall expire one (1) year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**Article 13.  
Administrative Appeals**

**5.13.1 Generally.**

Any person aggrieved by a decision of an administrative officer of the Town may file an appeal with the Board of Appeals.

**5.13.2 Procedure.**

The following procedure shall be followed in administrative appeals:

- a. **Submittal of appeal.** Within six (6) weeks of the decision that is being appealed, the applicant shall submit a written appeal to the Town Clerk.
- b. **Notifications.** The Town Clerk shall provide a copy of the appeal to the Board of Appeals and the officer who made the decision being appealed.
- c. **Submittal of record.** The officer who made the decision being appealed shall compile a complete and accurate record relating to the decision and submit it to the Board of Appeals.
- d. **Public hearing.** Allowing for proper public notice and notice to the parties in interest, the Board of Appeals shall conduct a public hearing to consider the appeal, including the written record and testimony as may be provided.
- e. **Decision.** Within forty (45) days of the public hearing, the Board of Appeals shall decide to affirm the administrative decision, set aside the decision, or affirm the decision in part and set aside the remainder.
- f. **Notification.** The Board of Appeals shall notify in writing both the applicant and the officer of its final decision.

**5.13.3 Effect of Appeal.**

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 of Appeals 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 of Appeals or by a court of record on application, with notice to the officer from whom appeal is made, and on due cause shown.

**Article 14.  
Board of Appeals**

**5.14.1 Establishment.**

A Board of Appeals is established for the purposes described in this part.

**5.14.2 Membership.**

The Board of Appeals shall consist of five (5) members appointed by the Town Chairman, subject to confirmation by the Town Board. The terms of office shall be for three (3) years, or until their successors shall have been duly appointed and qualified as members. Terms shall be staggered. Members shall be removable by the Town Chairman for cause upon written charges and after public hearing. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Town Chairman may appoint two (2) alternate members, who shall act, with full power, only when a member of the Board of Appeals may not vote because of a conflict of interest or when a member is absent.

**5.14.3 Organization, Meetings, and Permanent Record.**

The Board of Appeals shall adopt rules in accordance with the provisions of this chapter. 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 of Appeals 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 of Appeals 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.

**5.14.4 Officers and Employees.**

The Town Chairman shall designate one member as chairman. The Board of Appeals may employ a secretary and other employees.

**5.14.5 Powers.**

The Board of Appeals shall have the following powers:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
- b. To hear and decide applications for interpretations of zoning regulations and zoning district boundaries established under this chapter.
- c. To hear and decide applications for substitution of more restrictive nonconforming uses for existing nonconforming uses where no structural alterations are to be made.
- d. 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 Plan Commission shall have made a review and recommendation on the application.
- e. 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 Plan Commission 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 (1) year.
- f. To adopt rules and procedures it deems necessary to administer its responsibilities.
- g. To compel witnesses to attend and testify at an appeal hearing.

**5.14.6 Expenses.**

Board of Appeals members shall be reimbursed for expenses incurred in exercising their duties as a Board of Appeals member including automobile mileage at rates the Town Board may be set from time to time.

**5.14.7 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 chapter. The grounds of every such determination shall be stated in writing. A decision shall be made within forty (40) days after the final hearing on the matter of the hearing.

**5.14.8 Appeal of Board Decision.**

Any person aggrieved by a decision of the Board of Appeals, or any taxpayer, or any officer of the Town may appeal a decision of the Board of Appeals to a court of competent jurisdiction within thirty (30) days of said decision.

**Article 15.  
Amendments**

**5.15.1 Generally.**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, amend this chapter and/or the zoning map upon recommendation of the Planning Commission. The Planning Commission shall hold a public hearing consistent with the requirements as set forth in Section 5.8.2. Such amendments shall not become effective until such time as the County Board concurs with the amendment as required by state law. All such amendments shall be adopted according to the procedures consistent with state law established under §60-62 and 62.23 (7), Wis. Stats., upon review and recommendation by the Plan Commission.

**5.15.2 Consistency with Adopted Comprehensive Plan.**

Any amendment that is made to this chapter after January 1, 2010, shall be consistent with and furthers the intent and requirements of the Town's Comprehensive Plan that is in effect at the time. Any rezone petition that is not consistent with the Town of Nepeuskun Comprehensive Plan shall require an amendment to said plan before town action is taken on the rezone petition. Comprehensive Plan amendments shall include a Public Hearing held by the Planning Commission (Class 1 Public Hearing Notice). The Planning Commission shall make a recommendation on the Comprehensive Plan amendment to the Town Board for action.

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015
Amended	May 26, 2016
Amended	July 21, 2021
Amended	_____, 202_

.....

End of Chapter

*This page left blank intentionally*

**Chapter 6**  
**Land Division and Consolidation**  
.....

**6.1 Findings.**

The Town Board determines that it is in the public interest to regulate and control the division and consolidation of land within the Town for the benefit of town residents.

**6.2 Purpose.**

This chapter is intended to promote the public health, safety and general welfare; implement the Town's comprehensive plan and components thereof and facilitate enforcement of community development standards; promote the wise use, development conservation and protection of the soil, water, wetland, woodland and wildlife resources in the Town, achieve a balanced relationship between land use and development; further the orderly layout and use of land; prevent the overcrowding of land; lessen congestion in the streets and highways; provide for adequate light and air; facilitate adequate provisions for water, sewerage, and other public requirements; provide for proper ingress and egress; and promote proper monumenting of subdivided land and conveyancing by accurate legal description.

**6.3 Compliance.**

No person shall divide or consolidate any land located within the jurisdictional limits of the Town which results in a subdivision, minor land division, replat or consolidation, as defined herein; and no such subdivision, minor subdivision, replat, or consolidation shall be entitled to record without compliance with:

- a. All requirements of this Ordinance.
- b. The Town Comprehensive Plan or any component thereof, the zoning ordinance, and official map ordinance.
- c. The Winnebago County Land Division Ordinance.
- d. The Provisions of Chapter 236 of the Wisconsin Statutes.
- e. The Rules of the Wisconsin Department of Commerce regulating lot size and lot elevation necessary for proper sanitary conditions if any lot or unit is not served by a public sewer and provisions for such service have not been made.
- f. The Rules of the Wisconsin Department of Transportation relating to provision for the safety of entrance upon and departure from state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.
- g. The Rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodplain, wetland, and shoreland areas.

**6.4 Relationship to Other Requirements.**

This chapter shall supplement and be an addition to the Winnebago County Land Division Ordinance, effective March 22, 1989, and any amendment or successor thereto. Any portion of this chapter that is contrary to the provisions in that ordinance shall be considered severed from this chapter and ineffective. Said Winnebago County ordinance is incorporated herein by reference and wherever possible, the provision herein shall be construed in harmony with it.

**6.5 Application and Review Procedure.**

The following procedure and requirements shall be followed:

- a. The applicant desiring to divide or consolidate any parcel of land shall submit to the Town Plan Commission a preliminary proposal and a completed application for land division or consolidation with fee paid and such copies thereof as are required for Commission and Town Board consideration. Applications must be submitted to the Zoning Administrator at least 30 days prior to the established monthly meeting date of the Plan Commission. After review of the preliminary proposal, any subsequent changes and the kind and extent of public improvements, if any, which will be required, said Commission, based on Certified Survey Map (CSM), shall make its recommendation concerning the application to the Town Board for its determination. Within 45 days after Commission recommendation, the Town Board shall approve, approve conditionally, or reject the application giving its reasons, and the applicant shall be notified in writing of the Town Board determination.

- b. Preliminary land division or consolidation, if recommended by the Plan Commission and approved by the Town Board, shall be considered by the Plan Commission and Town Board prior to final approval of the layout shown by the approved proposal if actual plans and specifications conform substantially to the preliminary proposal and the conditions upon which Town Board approval has been given, subject to any requirements pursuant to the Winnebago County Code, Subdivision and Platting - Chapter 18 and any amendment or revision thereto, and any other binding legal authority.
- c. All written proposals and the Certified Survey Map (CSM) maps, plats, specifications, plans and documents in support thereof shall be drawn with waterproof non-fading black ink, paper of good quality and on a scale of not more than 100 feet to an inch, and shall be in sufficient detail and contain such information including the location of proposed sewer and water facilities for each lot and a verbatim recitation of any deed restrictions which apply or are proposed to apply, as will enable the Town Plan Commission and the Town Board to determine whether the proposal in its final form will comply with Nepeuskun Municipal Code. Land divisions and consolidations with no intention of building development in the near future should be so noted. A-1 and A-2 land division or consolidations CSM shall include an identification of the 'Base Farm Tract' as of 12.21.2010 and identify the number of available home sites. The CSM should also contain a notation that the land division is located in an active farming area and owners may be subject to traditional agricultural activities. If a common driveway or easement are included in the requested land division or consolidation specific information including but not limited to the location and maintenance of driveway or easement shall be noted on the CSM. The applicant may submit a final proposal only, but should realize that surveying and other related fees are then more so at the applicants own risk.
- d. The final proposal and such copies as shall be required by the Town Board shall be submitted to said Board for final approval within 6 months after the date of preliminary proposal approval by the final approving authority required for such proposal. The Town Board may waive the failure to comply with this requirement if waiver is in the best interests of the township. The final proposal of divided or consolidated land shall comply with the requirements of §236.20 Wisconsin Statutes if submitted by plat, or in the alternative, with the requirements of §236.34 Wisconsin Statutes if submitted by certified survey map, which are hereby adopted by reference and made a part of this chapter and in addition thereto, a copy of such plat or certified survey map shall be filed with the Town Clerk. The affidavits and certifications required by Chapter 236 Wisconsin Statutes for plats and to establish compliance with the requirements of §236.34 for certified survey maps shall be lettered or printed legibly on the final plat or certified survey map filed with the Clerk.
- e. The Town Board shall approve or reject the final proposal within 45 days of the recommendation from the Plan Commission unless the time is extended by the Town Board and with agreement of the applicant. Failure to give approval during said period as extended shall constitute a rejection of the final proposal. Reasons for rejection or failure of Town Board action shall be stated at the first Town Board meeting following rejection or non-action. A written copy of said reasons shall be prepared and supplied to the applicant.

**6.6 Additional Procedures.**

All proposals submitted to the Town Board under this chapter may be required to follow the procedure set forth in §70.27 Wisconsin Statutes for Assessor's plats and the costs thereof which shall be paid by the applicant. To the extent that this requirement is less restrictive than that of §18.21 and §18.32, of the Winnebago County Code, Subdivision and Platting - Chapter 18 and any amendment or revision thereto, the Winnebago County Code, Subdivision and Platting - Chapter 18 shall be adhered.

**6.7 Design Standards – Generally.**

Any proposal to divide or consolidate parcels of land in the Town of Nepeuskun shall conform to:

- a. The provisions of Chapter 236 Wisconsin Statutes, and in addition, said provisions shall apply to division or consolidation of land into parcels larger than one and one-half acres and to division of land into less than five parcels. Where the provisions of Chapter 236 Wisconsin Statutes are contrary to other provisions of Town of Nepeuskun ordinances the provisions of such ordinances shall prevail;
- b. The rules of the State Board of Health for land which is not served by public sewer and provision for which has not been made;
- c. The rules of the State Highway Commission relating to safety of access and the preservation of the public interest and investment in streets and highways if the proposal involves land abutting on a state trunk highway or connecting street;
- d. All applicable Town of Nepeuskun ordinances;

- e. Winnebago County Code, Subdivision and Platting - Chapter 18 and any amendment or revision thereto.

**6.8 Street Design Standards.**

- a. In any new land division or consolidation, the street layout shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and existing trees, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas.
- b. Where feasible, and in accordance with Sub Sec. 6.8.a, new streets built in sub-divisions should be winding, rather than straight.

**6.9 Street, Bicycle and Pedestrian Ways Standards.**

Bicycle and pedestrian ways, including off-street trails and paths, may be required where deemed necessary by the Plan Commission to provide adequate bicycle and pedestrian circulation or access to existing trails. Bicycle and pedestrian ways in wooded and wetland areas shall be so designed and constructed as to minimize the removal of trees, shrubs, and other vegetation, and to preserve the natural beauty of the area.

**6.10 Lots.**

- a. The size, shape, and orientation of new lots shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.
- b. Lot lines shall follow municipal boundary lines rather than cross them.
- c. New residential lots should be located away from productive farmland and sensitive environmental features.
- d. Exception to Minimum Road Frontage Requirements.
  - (1) A-1 and A-2 parcels or lots greater than or equal to five (5) acres in size, and not intended for building or construction purposes, may be created without the road frontage requirements, provided a non-buildability statement is included on the face of the CSM or plat and access is provided by an ingress/egress driveway easement. The ingress/egress driveway easement shall meet the following requirements:
    - (a) Be a minimum of 30 feet in width.
    - (b) Provide ingress/egress driveway access from the parcel or lot to a public road.
    - (c) Driveway access within the easement area to the public road shall be approved by the appropriate governmental jurisdiction prior to approval of the CSM

**6.11 Storm Water Management Facilities.**

- a. The subdivider shall construct storm water drainage facilities, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, and storage facilities as may be required in accordance with Winnebago County storm water and erosion control standards.
- b. "Green" strategies for storm water management must be incorporated into new development. These strategies are not required to be the sole instruments for stormwater management but must be at least partly incorporate into new development designs. "Green" strategies include, but are not limited to rain gardens, vegetated swales, permeable pavements and green roofs.

**6.12 Street Trees.**

- a. The subdivider shall plant or provide funding for the planting of at least one tree of a species approved by the Plan Commission of at least two inches in diameter measured at six inches above the top of the root ball at an average spacing of 50 feet along the frontage of all streets proposed to be dedicated. However, informal arrangements are also acceptable for street trees, to avoid the urban appearance that regular spacing may invoke.
- b. The requirement for street trees may be waived by the Plan Commission if substantial alternative landscaping with native species, including trees, is to be provided within the land division, if approved by the Town Plan Commission.
- c. Street trees shall be planted along internal streets of new subdivisions.

- d. Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.

**6.13 Preservation of Existing Vegetation.**

- a. The subdivider shall make every effort to protect and retain all existing desirable trees, shrubs, grasses, and groundcover not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, and bicycle and pedestrian ways. Trees shall be protected and preserved during construction and with sound conservation practices, including the preservation of trees by well islands or retaining walls, whenever abutting grades are altered.
- b. Existing trees over 10" diameter at breast height (DBH) shall be protected and preserved during construction unless otherwise approved by the Plan Commission.
- c. For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.

**6.14 Protection of Natural Resources.**

- a. Where natural drainage channels, floodplains, wetlands, or other environmentally sensitive areas are encompassed in whole or in part within a proposed land division, the Plan Commission may require that such areas be dedicated or that restriction be placed on the plat or certified survey map to protect such resources. The Plan Commission may further require that such areas be included in outlots designated on the plat or certified survey map and restricted from development.
- b. New subdivisions along shorelines must maintain a minimum 75 foot vegetated buffer along shorelines. Buffers should consist of native plants. An approved stewardship plan for these riparian buffers is required as part of the approval process for lots along shorelines.

**6.15 Utility Easements.**

- a. All utility lines for electric power and communication service shall be placed on mid-block easements along rear lot lines whenever carried on overhead poles, except where lots abut a lake or stream or where such location is deemed unfeasible by engineering standards for the utility company involved. Otherwise, adequate easements shall be provided and dedicated on each side of all rear lot lines and on side lot lines across lots or along front lot lines where necessary, for the installation of electric and communications facilities. Such easements shall be noted as "Utility Easements" on the final plat or certified survey map. Prior to approval of the final plat or certified survey map, the concurrence of the electric and communications companies serving the area as to the location and width of the utility easements shall be noted on the final plat or certified survey map.
- b. Where the electric and communications facilities are to be installed underground, the utility easements shall be graded to within 6 inches of final grade by the applicant, prior to the installation of such facilities, and earth fill, piles or mounds of dirt shall not be stored on such easement areas.
- c. Where the electric and/or communications facilities are to be installed underground, a note shall be placed on the final plat or certified survey map stating that the final grade established by the applicant on the utility easements shall not be altered by more than 6 inches by the applicant, his agent, or by subsequent owners of the lots on which such utility easements are located, except with the written consent of the utility or utilities involved.

**6.16 Improvements.**

Before a final proposal for land divisions located within the Town will be approved, the applicant shall make provision for and shall install the following improvements, as may be required:

- a. Facilities to properly drain surface water and water run-off to eliminate any drainage problem to abutting land parcels.
- b. Public roads that conform to Town Standards. Town Road standards shall be consistent with the Winnebago County Code, Chapter 18, Subdivision and Platting and any amendment or revision thereto.
- c. Adequate off-street parking in congested areas, if any.
- d. At least one park, recreational area, or similar space for each twenty-five parcels of land created, or portion thereof, affected by the proposal. The Town reserves the right to accept a fee in place of a land donation and recreation development should a more suitable location elsewhere in the Town be determined appropriate.

In addition, the applicant shall provide evidence that a suitable source of drinking water is available to serve each of the lots being created and that each lot has a suitable location for an on-site sewage disposal system. Plans and specifications for all improvements to be furnished and installed by the applicant shall be submitted for Town Board approval prior to the commencement of such installation and shall be inspected by the Town Board at all stages of completion.

**6.17 Reservation of Land.**

All land division or consolidation proposals shall be designed to give due consideration to the reservation of a portion of the land involved to reserve an adequate area for future schools, parks, playgrounds, or other public purpose.

**6.18 History of Adoption and Amendment.**

The Town Board first adopted a subdivision ordinance on June 18, 1990. The substance of that ordinance was incorporated into this code, with amendment, on June 21, 2010, by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015
Amended	_____, 202_

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 7  
Signs**

.....

**7.1 Purpose.**

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

- a. promoting well maintained and attractive signage with the Town;
- b. providing for adequate business identification, advertising, and communication; and
- c. protecting the safety and efficiency of the Town's transportation network by reducing confusion or distractions to motorists and enhancing motorists' ability to view pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing a proliferation of messages for the motorist.

**7.2 Permit Required.**

No projecting or free-standing sign, business sign or off-premises sign (regardless of value) shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a permit obtained from the Zoning Administrator. Signs in the residential and agricultural districts and temporary signs (to be used for less than 120 days) in the business district are exempt from this requirement. A permit fee shall be the minimum fee (regardless of value) as stated in the Town's Annual Fee Schedule or at the fee associated with the "Price of Building" (sign). Unless otherwise specified, the basic district standards shall apply for setback and height standards.

**7.3 Signs in Residential and Agricultural Districts.**

All signs are prohibited in all residential and agricultural districts except as follows:

- a. 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.
- b. Real estate signs which advertise the sale, rental, or lease of the premises, and political campaign signs when they are temporarily located.
- c. Name, occupation and warning signs not to exceed two (2) square feet located on the premises.
- d. 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:
  - 1. do not exceed 16 sq. ft. in area.
  - 2. are located a minimum of 10 ft. from the right-of-way.
  - 3. conform to the other yard requirements of the basic district.
  - 4. do not exceed in height ten (10) feet above the crown of the road.
- e. Memorial signs, tablets, names of building, and date of erection when cut into masonry surface or when constructed affixed flat against a structure.
- f. Official signs (municipal) such as traffic control, parking restrictions, information and notices.
- g. Temporary signs or banners when authorized by the Board of Appeals.
- h. Farm names and identification signs and signs for the sale of produce or farm commodities in all agricultural districts.
- i. Signs shall not obstruct visibility or otherwise create a public safety hazard or nuisance.

**7.4 Business Signs Permitted (On-Premises).**

- a. Business signs are permitted in the C-1 and C-2 districts.
- b. Temporary and mobile mounted signs (to be used for less than 120 days) are permitted in the commercial districts.
- c. Business signs clearance standards:
  - 1. Projecting signs shall not be less than ten (10) feet above the grade nor fifteen (15) feet above a driveway or an alley.

2. Free-standing signs.
  - i. 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.
  - ii. Located within 100 feet of the intersection of two streets: 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.
  - iii. 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.
3. Business Sign Setback Standards
  - i. Road—Minimum Setback—20 ft from road right-of-way unless otherwise specified in Conditional Use Approval
  - ii. Size—Area—Minimum—None—Maximum—100 sq. ft. per side, including all faces combined.
  - iii. Height—Maximum—35 ft. above crown of road.

**7.5 Off-Premises Signs.**

- a. **Advertising and Directional Signs Permitted.** Advertising and directional signs are permitted in the C-1 and C-2 Districts subject to the same standards as Chapter 4 and Article 9.
- b. **Vehicle Signage.** 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.

**7.6 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 may remain until they are altered, modified, abandoned, dilapidated or unmaintained.

**7.7 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 sign illumination shall be shaded, shielded, or directed from surrounding properties and vehicular traffic.

**7.8 Dilapidated, Unmaintained and Abandoned Signs.**

- a. **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 66.0413, Wis. Stats.
- b. 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 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.

**7.9 Distance Standards.**

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

**7.10 Applicability.**

This Ordinance shall not apply to billboards or similar structures that are not on premises abutting highways maintained by the Town or County.

**7.11 Enforcement.**

Any person who shall violate any section set forth in this Chapter shall be subject to a Class 1 fine as established by Chapter 1 of this code.

**7.12 History of Adoption and Amendment.**

This chapter was adopted on June 21, 2010 by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 8**  
**Plan Commission**

.....

**8.1 Purpose.**

The purpose of this ordinance is to establish a Town of Nepeuskun Plan Commission and set forth its organization, powers and duties, to further the health, safety, welfare and wise use of resources for the benefit of current and future residents of the Town and affected neighboring jurisdictions, through the adoption and implementation of comprehensive planning with significant citizen involvement

**8.2 Authority; Establishment.**

The Town Board of the Town of Nepeuskun, having been authorized by the Town meeting under sec. 60.10(2)(c), Wis. Stats., to exercise village powers, hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a seven (7) member Plan Commission under secs. 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the "Town Planning Agency" under secs. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of subdivision or other land division ordinance.

**8.3 Membership.**

The Plan Commission consists of one (1) member of the Town Board, who may be the Town Board Chairperson, and six (6) citizen members, who are not otherwise Town officials, and who shall be persons of recognized experience and qualifications.

**8.4 Appointments.**

The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term. The Town Board Chairperson may appoint himself or herself or another Town Board member to the Plan Commission and may designate himself or herself, the other Town Board member, or a citizen member as Chairperson of the Plan Commission. All appointments are subject to the advisory approval of the Town Board. In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board members elected. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

**8.5 Terms of Office.**

The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified, except:

- a. **Initial Terms.** If the initial appointments to the Plan Commission are made during April, the citizen members shall be appointed for staggered terms as follows: two (2) persons for a term that expires in one (1) year; two (2) persons for a term that expires in two (2) years; and two (2) persons for a term that expires in three (3) years. If the initial appointments are made after April, the first citizens appointed to the Plan Commission shall be appointed for staggered terms as follows: two (2) persons for a term that expires one (1) year from the previous April 30; two (2) persons for a term that expires two (2) years from the previous April 30; and two (2) persons for a term that expires three (3) years from the previous April 30.
- b. **Town Board Member or Chairperson.** The Plan Commission member who is a Town Board member or Town Board Chairperson, including a person designated by the Plan Commission Chairperson, shall serve for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board, except an initial appointment made after April 30 shall be for a term that expires two (2) years from the previous April 30.

**8.6 Vacancies.**

A person who is appointed to fill a vacancy on the Plan Commission shall serve for the remainder of the term.

**8.7 Compensation; Expenses.**

The Town Board of the Town of Nepeuskun shall set a per diem allowance for citizen and Town Board members of the Plan Commission, as allowed under sec. 66.0501(2), Wis. Stats. In addition, the Town Board may reimburse reasonable costs and expenses, as allowed under sec. 60.321, Wis. Stats.

**8.8 Experts & Staff.**

The Plan Commission may, under sec. 62.23(1), Wis. Stats., recommend to the Town Board the employment of experts and staff, and may review and recommend to the approval authority proposed payments under any contract with an expert.

**8.9 Rules; Records.**

The Plan Commission, under sec. 62.23(2), Wis. Stats., may adopt rules for the transaction of its business, subject to Town ordinances, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record under secs. 19.21-19.39, Wis. Stats.

**8.10 Chairperson & Officers.**

- a. **Chairperson.** The Plan Commission Chairperson shall be appointed and serve a term as provided in sections 5 and 6 of this ordinance. The Chairperson shall, subject to Town ordinances and Commission rules:
  - 1. provide leadership to the Commission;
  - 2. set Commission meeting and hearing dates;
  - 3. provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
  - 4. preside at Commission meetings and hearings;
  - 5. and ensure that the laws are followed.
- b. **Vice Chairperson.** The Plan Commission may elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., a Vice Chairperson to act in the place of the Chairperson when the Chairperson is absent or incapacitated for any cause.
- c. **Secretary.** The Plan Commission shall elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

**8.11 Commission Members as Local Public Officials.**

All members of the Plan Commission shall faithfully discharge their official duties to the best of their abilities, as provided in the oath of office, sec. 19.01, Wis. Stats., in accordance with, but not limited to, the provisions of the Wisconsin Statutes on: Public Records, secs. 19.21-19.39; Code of Ethics for Local Government Officials, secs. 19.42, 19.58 & 19.59; Open Meetings, secs. 19.81-19.89; Misconduct in Office, sec. 946.12; and Private Interests in Public Contracts, sec. 946.13. Commission members shall further perform their duties in a fair and rational manner and avoid arbitrary actions.

**8.12 General & Miscellaneous Powers.**

The Plan Commission, under sec. 62.23(4), Wis. Stats., shall have the power:

- a. Necessary to enable it to perform its functions and promote Town planning.
- b. To make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
- c. To recommend to the Town Board programs for public improvements and the financing of such improvements.
- d. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
- e. For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.
- f. Review and recommend action on proposed site plans, land divisions, conditional use requests and amendments.
- g. Approve or deny site plans.

**8.13 Town Comprehensive Planning: General Authority & Requirements.**

- a. The Plan Commission shall make and adopt a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats, and follows the procedures in sec. 66.1001(4), Wis. Stats.
- b. The Plan Commission shall make and adopt the comprehensive plan within the time period directed by the Town Board, but not later than a time sufficient to allow the Town Board to review the plan and pass an ordinance adopting it to take effect on or before January 1, 2010, so that the Town comprehensive

plan is in effect by the date on which any Town program or action affecting land use must be consistent with the Town comprehensive plan under sec. 66.1001(3), Wis. Stats.

- c. In this section the requirement to “make” the plan means that the Plan Commission shall ensure that the plan is prepared, and oversee and coordinate the preparation of the plan, whether the work is performed for the Town by the Plan Commission, Town staff, another unit of government, the regional planning commission, a consultant, citizens, an advisory committee, or any other person, group or organization.

**8.14 Procedure for Plan Commission Adoption & Recommendation of a Town Comprehensive Plan or Amendment.**

The Plan Commission, in order to ensure that the requirements of sec. 66.1001(4), Wis. Stats, are met, shall proceed as follows:

- a. **Public participation verification.** Prior to beginning work on a comprehensive plan, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the comprehensive plan. These written procedures shall include open discussion, communication programs, information services and noticed public meetings. These written procedures shall further provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such written comments.
- b. **Resolution.** The Plan Commission, under sec. 66.1001(4)(b), Wis. Stats., shall recommend its proposed comprehensive plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely that:
  - 1. the Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan;
  - 2. the plan contains the nine (9) specified elements and meets the requirements of those elements;
  - 3. the (specified) maps and (specified) other descriptive materials relate to the plan;
  - 4. the plan has been adopted by a majority vote of the entire Plan Commission, which the clerk or secretary is directed to record in the minutes; and
  - 5. the Plan Commission clerk or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001(4), Wis. Stats., and sub. (3) of this section.
- c. **Transmittal.** One copy of the comprehensive plan or amendment adopted by the Plan Commission for recommendation to the Town Board shall be sent to:
  - 1. Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
  - 2. The clerk of every city, village, town, county and regional planning commission that is adjacent to the Town.
  - 3. The Wisconsin Land Council.
  - 4. After September 1, 2003, the Department of Administration.
  - 5. The regional planning commission in which the Town is located.
  - 6. The public library that serves the area in which the Town is located.

**8.15 Plan Implementation & Administration.**

- a. **Ordinance development.** If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:
  - 1. **Zoning.** A proposed Town zoning ordinance under village powers, secs. 60.22(3), 61.35 and 62.23(7), Wis. Stats., a Town construction site erosion control and stormwater management zoning ordinance under sec. 60.627(6), Wis. Stats., a Town exclusive agricultural zoning ordinance under such. V of ch.91, Wis. Stats., and any other zoning ordinance within the Town’s authority.
  - 2. **Official map.** A proposed official map ordinance under sec. 62.23 (6), Wis. Stats.
  - 3. **Subdivisions.** A proposed Town subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
  - 4. **Other.** Any other ordinance specified by the Town Board
- b. **Ordinance amendment.** The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion, may prepare proposed amendments to the Town’s ordinances relating to comprehensive planning and land use.

- c. **Non-regulatory programs.** The Plan Commission, on its own motion, or at the direction of the Town Board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.
- d. **Program administration.** The Plan Commission shall, pursuant to Town ordinances, have the following powers.
  - 1. **Zoning conditional use permits.** The zoning administrator shall refer applications for conditional use permits under Town zoning to the Plan Commission for review and recommendation to the Town Board.
  - 2. **Subdivision review.** Proposed plats under ch. 236, Wis. Stats, and proposed subdivisions or other land divisions under the Town Land Division & Consolidation Ordinance shall be referred to the Plan Commission for review and recommendation to the Town Board.
- e. **Consistency.** Any ordinance, amendment or program proposed by the Plan Commission, and any Plan Commission approval, recommendation for approval or other action under Town ordinances or programs that implement the Town's comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats, shall be consistent with that plan as of January 1, 2010. If any such Plan Commission action would not be consistent with the comprehensive plan, the Plan Commission shall use this as information to consider in updating the comprehensive plan.

**8.16 Referrals to the Plan Commission.**

- 1. **Required referrals under sec. 62.23(5), Wis. Stats.** The following shall be referred to the Plan Commission for report:
  - a. The location and architectural design of any public building.
  - b. The location of any statue or other memorial.
  - c. The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any
    - i. street, alley or other public way;
    - ii. public park or playground;
    - iii. public airport;
    - iv. public area for parking vehicles; or
    - v. other memorial or public grounds.
  - d. The location, extension, abandonment or authorization for any publicly or privately owned public utility.
  - e. All plats under the Town's jurisdiction under ch. 236, Wis. Stats., including divisions under a Town subdivision or other land division ordinance adopted under sec. 236.45, Wis. Stats.
  - f. The location, character and extent or acquisition, leasing or sale of lands for
    - i. public or semi-public housing;
    - ii. slum clearance;
    - iii. relief of congestion; or
    - iv. vacation camps for children.
  - g. The amendment or repeal of any ordinance adopted under sec. 62.23, Wis. Stats., including ordinances relating to: the Town Plan Commission; the Town master plan or the Town comprehensive plan under sec. 66.1001, Wis. Stats.; a Town official map; and Town zoning under village powers.
- 2. **Required Referrals Under Sections of the Wisconsin Statutes Other Than sec. 62.23(5), Wis. Stats.** The following shall be referred to the Plan Commission for report:
  - a. An application for initial licensure of a child welfare agency or group home under sec. 48.68(3), Wis. Stats.
  - b. An application for initial licensure of a community-based residential facility under sec. 50.03(4), Wis. Stats.
  - c. Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under sec. 66.0905, Wis. Stats.

- d. Matters relating to the establishment or termination of an architectural conservancy district under sec 66.1007, Wis. Stats.
- e. Matters relating to the establishment of a reinvestment neighborhood required to be referred under sec. 66.1107, Wis. Stats.
- f. Matters relating to the establishment or termination of a business improvement district required to be referred under sec, 66.1109, Wis. Stats.
- g. A proposed housing project under sec. 66.1211(3), Wis. Stats.
- h. Matters relating to urban redevelopment and renewal in the Town required to be referred under sub ch. XIII of ch. 66, Wis. Stats.
- i. The adoption or amendment of a Town subdivision or other land division ordinance under sec. 236.45(4), Wis. Stats.
- j. Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.

3. **Required Referrals Under this Ordinance.** In addition to referrals required by the Wisconsin Statutes, the following matters shall be referred to the Plan Commission for report:

- a. Any proposal, under sec. 59.69, Wis. Stats., for the town to approve general county zoning so that it takes effect in the town, or to remain under general county zoning.
- b. Proposed regulations or amendments relating to historic preservation under sec. 60.64, Wis. Stats.
- c. A proposed driveway access ordinance or amendment.
- d. A proposed Town official map ordinance under sec. 62.23 (6), Wis. Stats., or any other proposed Town ordinance under sec. 62.23, Wis. Stats., not specifically required by the Wisconsin Statutes to be referred to the commission.
- e. A proposed Town zoning ordinance or amendment adopted under authority separate from or supplemental to sec. 62.23, Wis. Stats., including a Town construction site erosion control and stormwater management zoning ordinance under sec. 60.627(6), Wis. Stats., and a Town exclusive agricultural zoning ordinance under sub ch. V of ch. 91, Wis. Stats.
- f. An application for a conditional use permit under the Town zoning ordinance.
- g. A proposed site plan.
- h. A proposed extraterritorial zoning ordinance or a proposed amendment to an existing ordinance under sec. 62.23(7a), Wis. Stats.
- i. A proposed boundary change pursuant to an approved cooperative plan agreement under sec. 66.0307, Wis. Stats., or a proposed boundary agreement under sec. 66.0225, Wis. Stats., or other authority.
- j. A proposed zoning ordinance or amendment pursuant to an agreement in an approved cooperative plan under sec. 66.0307(7m), Wis. Stats.
- k. Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.
- l. Any proposed contract, for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, under sec. 66.0309, Wis. Stats., another unit of government, a consultant or any other person or organization.
- m. A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec. 66.0435, Wis. Stats.
- n. A proposed agreement or proposed modification to such agreement, to establish an airport affected area, under sec. 66.1009, Wis. Stats.
- o. A proposed town airport zoning ordinance under sec. 114.136(2), Wis. Stats.
- p. A proposal to create environmental remediation tax incremental financing in the town under sec. 66.1106, Wis. Stats.
- q. A proposed county agricultural preservation plan or amendment, under sub ch. IV of ch. 91, Wis. Stats., referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.

- r. Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Plan Commission.
4. **Discretionary Referrals.** The Town Board, or other town officer or body with final approval authority or referral authorization under the Town ordinances, may refer any of the following to the Plan Commission for report:
- a. A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment to such plan.
  - b. A proposed county zoning ordinance or amendment.
  - c. A proposed county subdivision or other land division ordinance under sec. 236.45, Wis. Stats., or amendment.
  - d. An appeal or permit application under the county zoning ordinance to the county zoning board of adjustment, county planning body or other county body.
  - e. A proposed intergovernmental cooperation agreement, under sec. 66.0301, Wis Stats., or other statute, affecting land use, or a municipal revenue sharing agreement under sec. 66.0305, Wis.Stats.
  - f. A proposed plat or other land division under the county subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
  - g. A proposed county plan, under sec. 236.46, Wis. Stats., or the proposed amendment or repeal of the ordinance adopting such plan, for a system of town arterial thoroughfares and minor streets, and the platting of lots surrounded by them.
  - h. Any other matter deemed advisable for referral to the Plan Commission for report.
5. **Referral Period.** No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred under the Wisconsin Statutes, may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

**8.17 Effective Date.**

The Town Board first adopted an ordinance establishing a Plan Commission on April 18, 2005. The substance of that ordinance was incorporated into this code, with amendment, on June 21, 2010, by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015

.....  
End of Chapter

**Chapter 9**  
**Application and Permit Fees**

.....

**9.1 Findings.**

The Town Board determines that it is in the public interest to assess certain fees to recover a portion of the administrative cost of reviewing and processing permits and applications.

**9.2 Fee Schedule.**

Fees shall be paid as consistent with the Town of Nepeuskun Annual Fee Schedule. A copy of which shall be provided by the Town Clerk.

**9.3 Refund of Fees.**

Once a fee is submitted to the Town, all fees are non-refundable.

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 10**  
**Town Constable**

.....

**10.1 Authority.**

This chapter is adopted pursuant to §60.35 and §60.22(4), Wis. Stats.

**10.2 Findings.**

The Town Board finds that it is in the public interest and welfare to establish the jurisdiction and duties of the town constable.

**10.3 Jurisdiction and Duties of Town Constable.**

The town constable shall enforce the provisions of Chapter 3 of this code.

**10.4 Non-exclusivity.**

1. **Other ordinance.** This chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
2. **Other remedies.** The jurisdiction and duties of the town constable, as stated herein, shall not preclude the Town Board or any other town officer from proceeding under any ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.

**10.5 Effective Date.**

This chapter shall become effective January 1, 1985.

**10.6 History of Adoption and Amendment.**

The Town Board first adopted an ordinance creating the position of town constable on January 22, 1985, by Ordinance 25. The substance of that ordinance was incorporated into this code, with amendment, on June 21, 2010, by Ordinance. Subsequent to that action, the following amendments have been made to this chapter:

<b>Description</b>	<b>Date</b>
Adopted	December 21, 2010
Amended	August 6, 2015

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 11  
Special Use Ordinance**

.....

**WHEREAS**, the Town finds it necessary to exercise its police powers as authorized by Section 60.22 of the Wisconsin Statutes;

**NOW, THEREFORE, The Town Board of the Town of Nepeuskun does hereby ordain as follows:**  
Chapter 11 Special Use Ordinance is created to read:

- I. **Uses are not permitted unless a special use permit is approved by the Town Board.** The following uses shall not be permitted in any residential, agricultural, or commercial district unless a temporary special use permit is approved. Temporary special use permits may be granted at the discretion of the Town Board after a public hearing and upon the imposition of appropriate conditions as determined necessary.
  - a. Music concerts
  - b. Large public picnics or festivals
  - c. Off road vehicle tracks or races
  - d. Transfer, transload, or similar operations
  
- II. **Farm and/or real estate auctions, non-profit organization events, outdoor weddings, reunions or similar functions and benefits over 100 participants are permitted with approval of the Town Board and with the fee waived.**
  
- III. **Conditions.** The Town Board reserves the right to place any reasonable restriction on the approval of a special use permit. Conditions may include but are not limited to:
  - a. Hours of operation
  - b. Crowd control, law enforcement involvement, off road parking availability
  - c. Noise control
  - d. Waste disposal and clean up
  - e. Sanitary facilities
  - f. Bonding for potential Town expenses
  - g. Any other conditions deemed necessary by the Town Board.
  
- IV. **Application procedure and costs:**
  - a. An applicant shall submit an application for a Special Use Permit in accordance with the procedures established in Section 5.8.2 to the Zoning Administrator prior to the planned activity or start of a continuing business venture. A non-refundable fee consistent with the Town's Annual Fee Schedule shall accompany the application. The application shall list the responsible parties, the location of the planned event or activity, a site plan showing the location of the necessary parking, lighting, sanitary facilities and such other detail as maybe necessary.
  - b. The application will be reviewed utilizing the same procedure as authorized for a Conditional Use Permit under the Town Zoning Ordinance (Section 5.8.2).
  - c. Allowing for proper notice, the Plan Commission shall hold a public hearing to review the application and make a recommendation to the Town Board.

<b>Description</b>	<b>Date</b>
Adopted	December 19, 2011
Amended	August 6, 2015

.....  
End of Chapter

*This page left blank intentionally*

**Chapter 12**  
**Public Nuisance and Junk Ordinance**

.....

**WHEREAS**, the Town Board of the Town of Nepeuskun deems it in the public interest and welfare to establish regulations prohibiting public nuisances and the collection of junk as defined herein; and

**WHEREAS**, the Town finds it necessary to exercise its police powers as authorized by Section 60.22 of the Wisconsin Statutes;

**NOW, THEREFORE**, the Town Board of the Town of Nepeuskun, Winnebago County, Wisconsin, does ordain as follows:

**SECTION 1 APPLICABILITY**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance including a collection of junk within the Town of Nepeuskun.

**SECTION 2 DEFINITIONS**

**1. Public Nuisance - General**

A public nuisance is a thing, act, occupation, condition or use of property, activity or action of a person, group of persons or other legal entity which exists and continues for such a length of time as to: (a) substantially annoy, injure, or endanger the comfort, health, repose or safety of the public; (b) in anyway render the public insecure in life or in the use of property; (c) unreasonably offend the public morals or decency; (d) unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any roadway, navigable body of water or other public way or the use of public property.

**2. Public Nuisances - Affecting Health**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this section:

- a. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- b. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty- four (24) hours after death of such animal, bird or fowl.
- c. Accumulation of decayed animals, wood, trash, rubbish, scrap metal, construction materials, demolition materials, tires, nonfunctional equipment, or any material whatsoever In which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
- d. All animals running at large including but not limited to dogs, cats, chickens, sheep, goats, geese, pigs, and cattle. "Running at Large" for purposes of this ordinance shall include an animal which is not on a leash or confined to an enclosed area that travels beyond the parcel boundaries of the animal owner.
- e. The escape of soot, cinders, noxious acids, fumes, gases, fly ash, dust or other atmospheric pollutants or particulates from the premises of the party generating the particulates into public areas or other private areas within the Town in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- f. The pollution of any public or private well, stream, marsh, ditch, canal or other body of water by sewage, animal waste, industrial wastes or other harmful substances.
- g. Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses of an ordinary person possessed with ordinary tastes and susceptibilities or which otherwise does annoy, discomfort, injure or inconvenience the health of persons within the Town. This definition shall not apply to odors produced through the normal farming practices. All abandoned wells, septic tanks, and cisterns not securely covered or not closed pursuant to applicable state law in order to prevent contamination or serious injury.

**3. Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (1) of this section:

- a. All loud, discordant and unnecessary noises or vibrations of any kind that continue over a substantial period of time.
- b. The keeping or harboring of any animal, bird or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall unreasonably annoy or disturb neighbors or other residents of the Town. This is intended to cover among other animals dogs that are penned up, tied up or kenneled that cause noise for more than an hour several times in a single day or repetitively for multiple days.
- c. The keeping of ice shanties, semi-trailers, outdoor privies, storage units (such as Pods), and other similar items for extended periods of time (more than 30 days) in public view, such as may create a hazard or may tend to depreciate the property value in the area, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished. Violations of this provision shall not occur with regard to improvements or personal property which may be visible during the winter months but is otherwise screened by foliage during the balance of the year unless in the opinion of the Town Board the items do create a significant hazard or depreciation of property value.
- d. All open and unguarded pits, wells, excavations or unused basements accessible by the public, or even by a trespassing individual. This does not include naturally occurring waterways or ponds or artificial ponds that would not normally present a hazard because they are not deep enough or are located in or as part of a garden.
- e. All obstructions of roadways or walkways and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- f. Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery (including unused or inoperable farm equipment) or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard.
- g. Any unauthorized or unlawful use of property abutting on a public roadway, road right of way or sidewalk which causes people to gather so as to obstruct traffic and free use of the roadway, sidewalks or dedicated right of ways.
- h. Any parking of any type of vehicle, trailer, or container within the road right of way.
- i. Any parking of any type of vehicle whether registered or not, trailer, or container within the front yard setback except on a legally installed hard surfaced driveway for a period of more than twenty-four (24) hours.
- j. The burning of trash, rubbish, furniture or any other materials that the burning of which is prohibited by the Wisconsin Department of Natural Resources. "Rubbish" includes but is not limited to waste materials and refuse of every character and kind collected and/or accumulated.
- k. All owners of property located within the Town who fail to keep their premises free of litter, debris, trash or rubbish shall be in violation of this subsection.

**SECTION 3 ABATEMENT OF PUBLIC NUISANCES**

**1. Inspection of Premises.**

Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board or its designee shall inspect, or cause to be inspected, the premises complained of, but only if the complaining party is willing to identify him or herself and, upon reasonable request, is willing to put the complaint in writing. The investigation of all complaints shall be done in a timely manner considering the nature of the complaint and the availability of Town Board members. For purposes of this ordinance, Town Board

members may individually, or as a group, inspect an area without providing public notice. It is understood that the Town Board is prohibited from taking any action with regard to the nuisance or formulating any decision with regard to the nuisance, until the Town Board meets in open session to discuss their observations and the input of others including the claimants and the owner of the property.

**2. Notice to Owner.**

If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such public nuisance or the owner or occupant of the premises where such nuisance exists. It should be provided that the notice shall be in writing delivered either personally or mailed to the owner of the property on which the nuisance exists and if different from the owner a copy of the notice shall also be mailed to the person causing, permitting or maintaining the nuisance. The purpose of the requirement of written notice is to assure that notice is actually received. The notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant to abate or remove such nuisance within three (3) days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

**3. Abatement by Town.**

If the nuisance is not abated within the time provided, or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance in whatever means the Town shall determine are reasonable and in accordance with the laws of the State of Wisconsin,

**4. Abatement by Court Action.**

If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Winnebago County.

**5. Other Methods Not Excluded.**

Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

## **SECTION 4 COSTS OF ABATEMENT**

**1. Costs.**

In addition to any other penalty imposed, any and all costs incurred by the Town, including but not limited to costs related to the abatement of the nuisance, court costs, legal fees, and similar expenses, will be assessed against the party causing, permitting or maintaining the nuisance or the owner or occupant of the premises where such nuisance exists, and collected in accordance with all applicable provisions of Wisconsin law, including the right to assess a lien against the real estate.

## **SECTION 5 PENALTIES**

**1. Penalties.**

Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, be fined not less than \$150.00, nor more than \$1,000.00 for each offense that the person has been found guilty of, together with the costs of prosecution, including reasonable attorney's fees incurred by the Town. After conviction, the court shall order a daily penalty for each day that a violation continues to exist. Furthermore, the Town shall be permitted to withhold the issuance of licenses, authorities, grants or permits until the nuisance has been abated and all penalties and costs satisfied.

## **SECTION 6 INTERPRETATION AND SEVERABILITY**

**1. Interpretation.**

The provisions of this ordinance are not intended to supersede or modify provisions of existing Zoning Ordinances or other rules, regulations and ordinances adopted by the Town. Where the provisions of this ordinance impose greater restrictions than any statute, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

**2. Severability.**

It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.

<b>Description</b>	<b>Date</b>
Adopted	February 23, 2011
Amended	August 6, 2015

.....  
End of Chapter

**Chapter 13**  
**Driveway and Culvert Ordinance**  
.....

**The Town of Nepeuskun, Winnebago County, Wisconsin, Does Hereby Ordain as Follows:**

This ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90. Further this ordinance is adopted pursuant to the powers granted to the Town Board under the grant of Village Powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health and safety.

**Title: DRIVEWAYS AND CULVERTS**

**A. DRIVEWAY PERMITS; CULVERT REQUIREMENTS.**

**1. Purpose.**

For the safety of the general public, the Town of Nepeuskun shall review the location, size, construction, and number of access points to Town roads under the jurisdiction of the Town. It is the Town's intent to ensure safe access to properties abutting Town roads.

**2. Culvert Requirements.**

No person shall construct any driveway or private road connecting to a public road under the jurisdiction of the Town of Nepeuskun without installing a culvert in full compliance with this section.

**3. Driveway and Culvert Permit Required; Application; Fee.**

a. Permit Requirement.

Issued by the Town of Nepeuskun by the Town Zoning Administrator.

No person shall locate, establish, or construct a private driveway, road, or other access from a private property line to the traveled portion of any Town road without first filing an application with the Town Zoning Administrator or designated representative and obtaining a driveway permit from the Town of Nepeuskun.

b. Application.

Application forms for such permit shall be made available by the Town Zoning Administrator or designated representative. The application and all attachments must be submitted to the Town Zoning Administrator or other designated representative, who will review per paragraph c. below. The request for such permit shall be in writing and signed by the owner of the real estate affected or said person's agent, with fee paid; and shall include design specifications and a drawing depicting the location and orientation of the proposed driveway in relationship to the real estate involved and the adjacent Town road.

c. Review.

The Town Zoning Administrator, or other designated representative, shall review all applications using this Section, data and findings, the existing adjacent driveways, and information from the County and State highway departments regarding driveway and culvert standards.

d. Fee.

At the time of making application for a driveway permit, the applicant shall pay a fee in accordance with the Town's Annual Fee Schedule. Replacement culvert requires permit with no fee.

**4. Application Provisions.**

All driveway permit applications shall contain the applicant's statement that:

- a. The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to this property and not for the purpose of

parking or servicing other vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road.

- b. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Town road at any time, including relocation, reconstruction, widening and maintaining the Town road without compensating the owner of such private driveway for the damages or destruction of such private roadway.
- c. The permittee, his successors or assigns, agrees to indemnify and hold harmless the Town of Nepeuskun, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- d. The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windows of such material upon such portion of such driveway within the dedicated portion of the Town road.

**B. DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.**

**1. General Requirements.**

The location, design and construction of driveways shall be in accordance with the following:

a. General Design.

Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the Town road of the property served.

Driveways shall not provide direct ingress or egress to or from any Town road intersection area and shall not encroach upon or occupy areas of the Town road right -of-way required for effective traffic control or for Town road signs or signals.

A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the Town road.

Driveway approaches shall comply with existing standards as established in the Town's zoning code.

Driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

All driveways shall be designed with adequate width and materials to allow access by emergency vehicles.

The maximum slope of a driveway is 10 percent.

All driveways should be designed with adequate space for stopping at the roadway entrance, on a slope of not greater than 5 percent. Runoff shall be directed away from the roadway.

The spacing between non-agricultural driveways shall be at least 300 feet.

b. Number.

The number of driveways to serve an individual residential or commercial property fronting on a Town road shall be one (1), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the Town roads. Additional driveways may be approved for commercial and other use areas where deemed reasonable.

c. Island Area.

The island area in the Town road right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (5).

d. Drainage.

The surface of the driveway connecting with Town road cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the Town road roadbed. No driveway apron shall extend out into the Town road further than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of Town roads, side ditches, or roadside areas or with any existing structure on the right-of-way. All driveways and parking lots shall be graded in such way that no storm water reaches the roadway.

e. Restricted Areas.

The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:

- 1) The filling or draining shall be to grades approved by the Town Board, except where Town road drainage is by means of curb and gutter, water drainage of the area shall be directed away from the Town road roadbed in a suitable manner.
- 2) Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than sixty (60) feet and/or where a bend or curve in the pipe is required.
- 3) Where no Town roadside ditch separates the restricted area from the Town road roadbed, permanent provision may be required to separate the area from the Town road roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.

f. Waiver

Any of the above requirements may be waived or substituted by the Town Board in such instances where the peculiar nature of the property, the design of the Town road, or for safety concerns, may make the adherence to the above requirements impossible or impractical. Driveway spacing requirements in the Town zoning ordinance may also be waived by the Town Board.

**2. Special Requirements for Agricultural, Commercial and Industrial Driveways.**

The following regulations are applicable to all agricultural, commercial, and industrial driveways:

a. Width of Driveway.

No part of a private driveway located within the dedicated area of a Town road shall, except as hereinafter provided, have a width greater than 45 feet measured at right angles to the center line of said driveway, except as increased by permissible radii. Thereafter, the driveway may narrow to a minimum of ten (10) feet. In instances where the nature of the agricultural, commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board may act at its discretion to permit a driveway of additional width.

b. Angular Placement of Driveway.

The angle between the center line of the driveway and the road edge is preferred to be 90 degrees but shall not be less than seventy (70) degrees.

c. Driveway Height Clearance.

The driveway shall have a minimum height clearance of fourteen (14) feet within the Town road right-of- way.

**3. Special Requirement for Residential Driveways.**

The following regulations are applicable to driveways serving residential property and multipurpose agricultural driveways.

a. Width.

Unless special permission is first received from the Town Board, or committee thereof, a driveway shall be not less than eighteen (18) feet wide at the roadway. Thereafter, the driveway may narrow to a minimum of ten (10) feet.

b. Angular Placement.

The center line of the driveway may be parallel to the property line of the lot where access is required or at right angles to the road edge but in no case less than seventy (70) degrees.

c. Driveway Height Clearance.

The driveway shall have a minimum height clearance of fourteen (14) feet within the Town road right-of-way.

**4. Appeal from Permit Refusal.**

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

**5. Prohibited Driveways.**

a. No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any Town road in the Town of Nepeuskun except as permitted by this section. As used herein the word "structure" includes private driveways, a portion of which extends into any Town road and which is in non-conformance with this Chapter.

b. No driveway shall be closer than sixty (60) feet to the extended Town road line at an intersection. At Town road intersections, a driveway shall not provide direct ingress or egress to or from the Town road intersection area and shall not occupy areas of the road way deemed necessary by the Town for effective traffic control or for highway signs or signals. These standards do not apply to the replacement of existing driveways which were originally constructed before August 6, 2015.

c. The grade of that portion of any private driveway located within the limits of any Town road shall be such as shall meet the grade of the existing Town roadway at its edge and not cause an obstruction to the maintenance or clearing of such Town roadway.

**6. Culvert Construction Standards, Erosion Control, Cost.**

a. Size, Length.

Culverts shall be installed prior to construction work being commenced on the property served. Driveway culverts shall be designed to convey the 10 year storm event. No pipe smaller than eighteen (18) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. A culvert exemption may be approved if it can be clearly demonstrated that the proposed driveway is at the high point of the road being connected. Length of the pipe shall be no less than twenty (20) feet excluding the end walls. All culverts shall be constructed of reinforced concrete, corrugated steel, corrugated aluminum or corrugated polyethylene, or equivalent galvanized specifications stated in (b) below, and shall be of new manufacture, unless specifically excepted by the Town Zoning Administrator. Property owner should be advised that a stormwater/erosion control permit may be required from Winnebago County before installation of a culvert.

b. Gauge.

The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

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

The class of reinforced concrete pipe shall be in accordance with the following:

Height of Cover in feet:	Class of Pipe:
0-2	IV
2-3	III
3+	PVC or upon Town approval ADS

c. Drainage.

The culverts shall be placed in the ditch line at elevations that will assure proper drainage. Culverts may not be required when placed at the crest of a hill.

d. End Walls.

Culverts shall be provided with a concrete or metal apron end wall as directed by the Town Zoning Administrator. All end walls shall have at least a 2 to 1 slope (horizontal measure to vertical measure) from the top of the driveway to the end of the apron.

e. Backfill Materials.

Material used for back-fill shall be gravel or other suitable material and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

f. Erosion Control.

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

g. Cost.

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

<b>Description</b>	<b>Date</b>
Adopted	November 21, 2011
Amended	August 6, 2015
Amended	May 26, 2016

.....  
 End of Chapter

*This page left blank intentionally*

**Chapter 14**  
**Farmland Preservation Ordinance**

.....

**Purpose.** The purpose of the A-1 Agricultural District is qualify lands in the district or under this classification for eligibility under the Wisconsin State Farmland Preservation program and to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. Intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.

**A. DEFINITIONS.** In this farmland preservation ordinance:

- (1) "Accessory use" means any of the following land uses on a *farm*:
  - (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
    - 1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
    - 2. A facility used to keep livestock on the farm.
    - 3. A facility used to store or process inputs primarily for agricultural uses on the farm.
    - 4. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
    - 5. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
    - 6. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
    - 7. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
  - (b) An activity or business operation that is an integral part of or incidental to an agricultural use.
  - (c) A farm residence, including normal residential accessories.
  - (d) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
    - 1. It is conducted on a farm by an owner or operator of that farm.
    - 2. It requires no buildings, structures, or improvements other than those described in par. (a) or (c).
    - 3. It employs no more than 4 full-time employees at any given time.
    - 4. It does not impair or limit the current or future agricultural use of the farm or other protected farmland in any significant way or substantive part.
- (2) "Agricultural use" means any of the following activities conducted for the purpose of producing an income or livelihood:
  - (a) Crop or forage production.
  - (b) Keeping livestock.
  - (c) Beekeeping.
  - (d) Nursery, sod, or Christmas tree production.
  - (e) Floriculture.
  - (f) Aquaculture.
  - (g) Fur farming.
  - (h) Forest management.
  - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (3) "Agriculture-related use" means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
  - (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
  - (b) Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
  - (c) Slaughtering livestock, including livestock from farms in the farmland preservation zoning district.
  - (d) Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
  - (e) Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation zoning district.

- (4) "Common ownership" means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple. Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance but not necessarily for other purposes.
- (5) "Contiguous" means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.
- (6) "Farm" means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
  - (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
  - (b) A majority of the land area is in agricultural use.
- (7) "Farm residence" means any of the following structures located on a farm:
  - (a) A single-family or duplex (two-family) residence that is the only residential structure on the farm.
  - (b) A single-family or duplex (two-family) residence that is occupied by any of the following:
    1. An owner or operator of the farm.
    2. A parent or child of an owner or operator of the farm
    3. An individual who earns more than 50 percent of his or her gross income from the farm.
    4. A migrant labor camp that is certified under s. 103.92, Wis. Stats.
- (8) "Gross farm revenue" means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Gross farm revenue" includes receipts accruing to a renter, but does not include rent paid to the land owner.
- (9) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, llamas, ostrich/emus, and farm-raised fish.
- (10) "Nonfarm residence" means any residence other than a farm residence.
- (11) "Open space parcel" means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
- (12) "Person" means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
- (13) "Prime farmland" means all of the following:
  - (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
  - (b) Land, other than land described in par. (a), which is identified as farmland in the county's certified farmland preservation plan.
- (14) "Prior nonconforming use" means a land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.
- (15) "Protected farmland" means land that is any of the following:
  - (a) Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
  - (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
  - (c) Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
  - (d) Otherwise legally protected from nonagricultural development.

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

- (1) Uses allowed under section C without a conditional use permit.
- (2) Uses allowed under section D with a conditional use permit.
- (3) Prior nonconforming uses, subject to 59.69(10) Wis. Stats.

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

- (1) Agricultural uses and accessory uses on farms (including farm residences), including those in Section 5.4.3, Exhibit 2, except that a conditional use permit is required under section D(2) for the following agricultural uses and accessory uses on farms:
  - (a) A new or expanded facility used to keep cattle, swine, poultry, sheep or goats, if that facility will have more than 500 animal units if the proposed facility meets the standards, procedures and application prescribed in ch. ATCP 51, Wis. Admin. Code, Wis. Stats 93.90 and NR 243.
  - (b) See Chapter 5, Exhibit 2, Land Uses by District for other conditional uses.
- (2) Non-farm residential structures built prior to January 1, 2014
- (3) Undeveloped natural resource and open space areas.
- (4) Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

**D. CONDITIONAL USES.**

**(1) General.**

- (a) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section.
- (b) Before issuing a conditional use permit under par. (a), the Town Board on recommendation of the Plan Commission shall determine in writing that the proposed use meets applicable conditions under this section. The Town Board on recommendation of the Plan Commission may issue the permit subject to any additional conditions which the Town Board on recommendation of the Plan Commission deems necessary to carry out the purposes of this ordinance.
- (c) See Chapter 5, Exhibit 2, Land Uses by District for other conditional uses.

**(2) Agricultural and accessory uses on farms.** The Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following agricultural uses or accessory uses for which a permit is required under section C(1):

- (a) A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.
- (b) Also see Chapters 5, Exhibit 2, Land Use by District for other conditional uses.

**(3) Agriculture-related uses.** The Town Board on recommendation of the Plan Commission may issue a conditional use permit for an agriculture-related use if all of the following apply:

- (a) The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.
- (b) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (c) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (d) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- (e) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.

- (f) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

**(4) Compatible infrastructure.**

- (a) Unless required by State or Federal law, the Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following uses if that use meets applicable conditions under par. (b):

1. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
2. Communication uses, including transmission lines, cell towers, antennae and broadcast towers.
3. Oil, gas and other pipelines.
4. Electrical transmission lines.
5. Wind turbines (when not an accessory use on a farm which is permitted).
6. Solar power generation facilities (when not an accessory use on a farm which is permitted).
7. Drainage facilities.

- (b) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed use under par. (a) if all of the following apply:

1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

**(5) Government and nonprofit community uses.** The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the Town Board on recommendation of the Plan Commission determines that all of the following apply:

- (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

**(6) Nonmetallic mineral extraction.** The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:

- (a) The operation complies with all of the following:

1. Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter.
  2. Applicable provisions of the Town of Nepeuskun Ordinances.
  3. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - (c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
  - (d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
  - (e) The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
  - (f) The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.

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

- (1) Except as provided in sub. (2), the Town Board on recommendation of the Plan Commission may not rezone land out of a farmland preservation zoning district unless the Town Board on recommendation of the Plan Commission finds all of the following in writing, after public hearing, as part of the official record of rezoning:
  - (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district. Rezoning decisions and actions shall follow DATCP guidelines if available. Note: No rezoning is required for residences built prior to January 1, 2014.
  - (b) The rezoning is consistent with any comprehensive plan, adopted by the Town Board on recommendation of the Plan Commission which is in effect at the time of the rezoning.
  - (c) The rezoning is substantially consistent with the Winnebago County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
  - (d) The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (2) Subsection (1) does not apply to any of the following:
  - (a) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
  - (b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Winnebago County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- (3) The Town of Nepeuskun shall notify DATCP by March 1 annually, of any acres rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres as required by Wis. Stats. 91.48(2) and 91.48(3).

**Attestation of Action**

<b>Description</b>	<b>Date</b>
Adopted	January 21, 2013
Amended	August 6, 2015
Amended	_____, 202_

End of Chapter

**Chapter 15**  
**Town of Nepeuskun Ordinance # 2013-002**  
**Fire Protection and Burning Ordinance**

.....  
**RECITALS**

**WHEREAS**, the Town of Nepeuskun has entered into an Agreement to obtain fire protection and all other related services with the Ripon Area Fire District (“RAFD”), for all of Sections 21-36 of the Town of Nepeuskun; and

**WHEREAS**, the RAFD recently adopted uniform Fee Schedules for various fire related services; and

**WHEREAS**, the Town Board deems it advisable to officially adopt a uniform Fee Schedule consistent with the one suggested by the RAFD, regardless of the servicing or responding fire agency; and

**WHEREAS**, the Town Board, in the interests of protection of public health and safety, further wishes to adopt standards for open and controlled burning that apply to the entire Township, whether served by the RAFD, or not.

**NOW, THEREFORE**, the Town Board of the Town of Nepeuskun, Winnebago County, Wisconsin, pursuant to the powers granted under the Wisconsin Constitution, and pursuant to the powers granted to the Town Board under the grant of Village Powers pursuant to Sec. 60.22 of the Wisconsin Statutes, does hereby ordain as follows:

**FIRE PROTECTION AND BURNING ORDINANCE**

**A. FIRE PROTECTION AGREEMENT.**

The Town of Nepeuskun has entered into an Agreement to obtain fire protection and all other related services with the Ripon Area Fire District (“RAFD”) for those properties contained in Sections 21-36 of T16N R14E, Winnebago County, Wisconsin. The fire protection agreement, and any amendments thereto, as they relate to all rules and regulations that are associated with services provided for fire protection in that part of the Town of Nepeuskun shall become part of this Ordinance.

**B. FEE SCHEDULE FOR FIRE PROTECTION SERVICES.**

The Fee Schedules for various fire related services, as outlined on Exhibit “A” are hereby adopted for the entire Town of Nepeuskun. Such Fee Schedules, and any amendments thereto, shall become part of this Ordinance and shall regulate the fees and/or costs charged for such fire services provided by the RAFD to properties located in that part of the Town of Nepeuskun covered by the fire protection agreement with the RAFD and to services provided by the Berlin Fire Department to properties located in that part of the Town of Nepeuskun covered by the Berlin Fire Department. Fees charged will be transmitted to the RAFD in accordance with the fire protection agreement and to the Town for transmittal to the Berlin Fire Department in accordance with any agreement that may be reached with their Department or retained by the Town to cover costs incurred by the Town in those areas covered by the Berlin Fire Department.

**C. OPEN BURNING.**

**1. Intent.**

It is the intent of this section to create burning standards for the entire Town of Nepeuskun to ensure the safety of life and property. It is not the intent of this section to regulate the use of gas and charcoal grills, burn barrels, or recreational camp fires contained to pits, portable fire pits, fireplaces or chimneys.

**2. Prohibited Open Burning.**

Open burning is the process of burning any materials where the products of combustion pass directly into the air without going through a chimney or stack. Except as provided in subsection 3, below, no person shall open burn any wood, grass, rubbish or other combustible material upon the streets or upon any lot or parcel of land in the Town within forty feet (40’) of any residence, dwelling house, school, or church, or upon any parcel of land upon which there is located or growing any hay, grass, weeds, bushes, shrubs, or other material of combustible nature.

**3. Permitted Open Burning.**

a. Notice Before and After. Any person planning an open burn (the "Responsible Resident") shall, prior to burning, call the Winnebago County Dispatch to notify them of the planned open burn and shall indicate the location of the burn, the planned start time for the burn, and the planned end time for the burn. A good faith effort should also be made to notify all residents within a three hundred foot (300') radius of the intended open burn site. Once the open burn is complete, the Responsible Resident shall call the Winnebago County Dispatch to inform that the burn is complete.

b. Controlled Prairie Burn or Similar Controlled Burns. The Town will permit certain controlled burns of fields, natural prairies, or other grasses areas in conformity with standards which have been established by the Wisconsin Department of Natural Resources, the US Department of Agricultural or similar governmental agency. Anyone desiring to conduct such a burn off of vegetation must first prepare a burn plan and obtain written permission from the responsible fire department's Fire Chief or their designee. The permitted controlled burn shall be consistent with the other requirements of this ordinance unless explicitly waived by the appropriate Fire Chief or their designee.

c. Hours and Required Attendance. Any permitted open burning shall only be from one half hour before sunrise and one half hour after sunset and shall be personally attended at all time.

d. Violation – Penalty. Any person who violates any provision of this Ordinance, or any order, rule or regulation made hereunder, shall forfeit not less than \$100.00 nor more than \$500.00 for each offense, and in addition, may be subject to an assessment from a responding fire department, for the actual cost of any fire department response if the Responsible Party has not fully complied with the requirements of this Section.

e. Authority to Issue Citations. The Fire Chief of any fire department servicing the Town of Nepeuskun, or his or her designee may issue written citations for violations of this Section.

f. Loss of Control. If a fire department responds due to loss of control of an open burn, the actual cost of the response may be assessed. If, however, a fire department responds to a fire call for an open burn, but the Responsible Party is in full compliance with this Section, and the open burn is under control, then there shall be no additional assessment.

g. Negligent Handling of Burning Materials. In conformance with Wis. Stats. 941.10 any person who handles burning materials in a highly negligent manner shall forfeit not more than \$500. Burning materials are handled in a highly negligent manner if, under the circumstances, the person knows or should know or realize that there is an unreasonable risk and probability of death or great bodily harm to another or serious damage to another's property.

**Attestation of Action regarding Ordinance #2013-002**

<b>Description</b>	<b>Date</b>
Certified	December 16, 2013

**EXHIBIT "A"**

**FEE SCHEDULES**

**I. FEE SCHEDULE – FIRE INSPECTIONS**

1. GENERAL. The standard fee for all first-time Fire Inspections in a calendar year will be assessed according to the following tiered schedule:

<u>Size of Structure (sq. ft.)</u>	<u>Charge</u>
0 – 50,000	\$25
50,000 – 200,000	\$200
200,000 and above	\$350

2. RE-INSPECTIONS. Additional fees for Re-Inspections in a calendar year will be assessed according to the following schedule:

<u># of Re-Inspections<sup>2</sup></u>	<u>Charge</u>
1 <sup>st</sup>	No charge
2 <sup>nd</sup>	No charge
3 <sup>rd</sup>	\$150
4+	\$200 per

---

<sup>2</sup> Per calendar year, per premises.

**II. FEE SCHEDULE – OTHER SERVICES**

**1. FALSE ALARMS.**

- a. General. False alarms require response from the District, involve unnecessary expense to the District, increase the risk of injury to persons or damage to property, and dilute the overall public safety protection to the District. In order to abate the public nuisance created by such false alarms, charges for false alarms shall be assessed as follows:

<u># of False Alarms<sup>3</sup></u>	<u>Charge</u>
1 <sup>st</sup>	No Charge
2 <sup>nd</sup>	No Charge
3 <sup>rd</sup>	No Charge
4+	\$150 per

**2. AUTOMOBILES – RESPONSE – ACCIDENTS – FIRES.**

- a. General. A minimum fee of \$500 per vehicle (the “Minimum Fee”) will be assessed for each District roll-out resulting in services or assist in response to an automobile incident, including but not limited to emergency response, accidents, and fires.
- b. Additional Fees. If the actual cost of responding to an automobile incident exceeds the Minimum Fee per vehicle, then the additional actual cost in excess of the Minimum Fees (the “Excess Costs”) shall be divided by the number of vehicles involved and assessed as follows:
  - i. Residents / Owners. Residents and/or property owners within the District are exempt from any additional Excess Costs.
  - ii. Non-Residents / Non-Owners. The portion of the Excess Costs attributed to vehicles of Non-residents and non-property owners shall be assessed according to the hourly fees set forth in Section III (Hourly Fee Schedule) contained herein

**3. STRUCTURE FIRES.**

- a. Dwelling Units and Accessory Structures. A flat fee of \$500 per Dwelling Unit<sup>4</sup> or Accessory Structure<sup>5</sup> (collectively, “Dwelling Structures”) will be assessed to the owner(s) of the Dwelling Structure(s) for each District roll-out in response to a Dwelling Structure fire.
- b. Other Structures. For all other structures, a minimum fee of \$500 per structure (the “Minimum Fee”) will be assessed for each District roll-out in response to a structure fire. If the actual cost of responding to such a structure fire exceeds the Minimum Fee per structure, then the additional actual cost in excess of the Minimum Fees (the “Excess Costs”) may be assessed according to the hourly fees set forth in Section III (Hourly Fee Schedule) contained herein , except that the owner(s) of such structure(s) shall only be responsible for the Excess Costs that are paid by the owner’s insurance company.

- 4. **INTENTIONAL FIRES – CONTROLLED BURNS.** Each Member Municipality of the District has established independent policies and procedures for approving and monitoring intentional, controlled burns. If a resident and/or property owner is in full compliance with the policies and procedures of the relevant Member Municipality, then no charge will be assessed. However, if a resident and/or property owner is not in full compliance with the policies and procedures of the relevant Member Municipality, then the actual cost of the District’s response will be assessed to the resident and/or property owner in full, according to the hourly fees set forth in Section III (Hourly Fee Schedule) contained herein..

<sup>3</sup> Per calendar year, per premises.

<sup>4</sup> *Dwelling Unit* is defined as one of more rooms arranged for the use of one or more individuals living together as a single housekeeping unit with cooking, living, sanitary and sleeping facilities. For purpose of Section 3, a two-family duplex dwelling unit shall be considered a Dwelling Unit.

<sup>5</sup> *Accessory Structure* is defined as a structure customarily incidental or subordinate to a Dwelling Unit and located on the same lot with the Dwelling Unit.

5. **MISCELLANEOUS NON-CHARGES**. As a matter of public policy, no charge will be assessed for District response to the following:
- a. Carbon monoxide response
  - b. Radon response
  - c. EMS assists
  - d. Arson fires set by third parties outside the control of the property owner
  - e. Acts of God and natural disasters

**III. HOURLY FEE SCHEDULE**

Hourly fees shall be based on the following schedule:

First Engine	1 <sup>st</sup> hour	\$130
	2 <sup>nd</sup> + hour	\$120
Second Engine	1 <sup>st</sup> hour	\$90
	2 <sup>nd</sup> + hour	\$70
Tender	1 <sup>st</sup> hour	\$55
	2 <sup>nd</sup> + hour	\$45
Squad Unit	Every hour	\$65
Grass Unit	Every hour	\$70
Firemen	Hour per man	\$16.50

Additional fees for materials used shall be based on the following schedule:

Water	Actual charge for water used
Foam	\$25 per gallon
Air Tanks	\$10 per tank