CODE OF ORDINANCES

Town of Big Bend

Rusk County, Wisconsin

Town Zoning Effective in Big Bend 10 1 2023

Original Code of Ordinances Adopted by Town Board May 7 2003

Revised Code of Ordinances Adopted by Town Board March 4 2026

Prepared by Zoning Ordinance Committee

Tracking of Amended and New Ordinances

TRACKING	TITLE NAME	TITLE and CHAPTER	BOARD APPROVAL DATE
New Ordinance	Concentrated Animal Feeding Operation – CAFO	Title 13 Chapter 21	Board Adopted 09 02 2026
Amended	ATV/UTV – Numbering Error	Title 10 Chapter 2	ZO Committee Mtg 07 20 2026
New Ordinance	Boat House Construction	Title 13 Chapter 20	Board Adopted 02 04 2026
New Ordinance	Exhibition Driving	Title 10 Chapter 5	Board Adopted 02 04 2026
Amended	Unlicensed Unregistered & Junked Vehicles	Title 10 Chapter 4	Board Adopted 02 04 2026
Amended	ATV/UTV - Speed	Title 10 Chapter 2	Board Adopted 08 06 2025
Amended	Driveway-Culverts	Title 6 Chapter 4	Board Adopted 02 05 2025
Amended	Tourist/Short Term Rental	Title 13 Chapter 9	Board Adopted 12 04 2024
New Ordinance	Solar	Title 13 Chapter 19	Board Adopted 06 05 2024
Amended	Subdivision-Platting	Title 14	Board Adopted 02 07 2024
Amended	Zoning	Title 13	Board Adopted 09 06 2023

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TITLE 1

General Provisions for Use of Code of Ordinances

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Title 1 ► Chapter 1

Use and Construction of Code of Ordinances

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Sec. 1-1-1 Title of Code.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, Town of Big Bend, Rusk County, Wisconsin." References to the Code of Ordinances, Town of Big Bend, Wisconsin, shall be cited as follows: "Sec. 2-1-1, Code of Ordinances, Town of Big Bend, Wisconsin."

Sec. 1-1-2 Principles of Construction.

The following rules or meanings shall be applied in the construction and interpretation of Ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the Ordinances:

(a) **Acts by agents.** When an Ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

(b) **Code and Code of Ordinances.** The words "Codes," "Code of Ordinances" and "Municipal Code" when used in any Section of this Code shall refer to this Code of Ordinances of the Town of Big Bend unless the context of the Section clearly indicates otherwise.

(c) **Computation of time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation; if more than seven (7) days they shall be included. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law.

(d) **Fine.** The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.

(e) **Gender.** Every word in these Ordinances referring to gender shall be gender neutral.

(f) **General rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.

(g) **Interpretation**. These ordinances shall be liberally interpreted in favor of the health, safety and general welfare of the public.

(h) **Person.** The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

(i) **Repeal.** When any Ordinance having the effect of repealing a prior Ordinance is itself repealed, such repeal shall not be construed to revive the prior Ordinance or any part thereof, unless expressly so provided.

(j) **Singular and plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to the plural number shall also be construed to apply to one (1) person or thing, depending on the context.

(k) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the past or future tense where appropriate.

(l) **Town**. The term "Town" shall mean the Town of Big Bend, Rusk County, Wisconsin.

(m) **Wisconsin Statutes**. The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the most recent version of the Wisconsin Statutes as amended.

(n) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended.

State Law Reference: Legal Holidays, Section 995.20, Wis. Stats.

Sec. 1-1-3 Conflict of Provisions.

(a) If the provisions of different Chapters conflict with each other, the provisions of each individual Chapter shall control all issues arising out of the events and persons intended to be governed by that Chapter.

(b) If the provisions of different Sections of the same Chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

Sec. 1-1-4 Separability of Provisions.

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

Sec. 1-1-5 Effective Date of Ordinances.

(a) **Code.** The Code of Ordinances, Town of Big Bend, Rusk County, Wisconsin, shall

take effect as provided by state law.

(b) **Subsequent Ordinances.** All Ordinances passed by the Town Board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication or legal posting.

State Law Reference: Code of Ordinances, Section 66.0103, Wis. Stats.

Sec. 1-1-6 General Penalty.

(a) **General Penalty.** Except where a penalty is provided elsewhere in this Code of Ordinances, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) *First Offense — Penalty.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00), together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

(2) *Second Offense — Penalty.* Any person found guilty of violating any Ordinance or part of an Ordinance of this Code who shall previously have been convicted of a violation of the same Ordinance within one (1) year shall, upon conviction thereof, forfeit not less than One Hundred Dollars ($100.00) nor more than Two Thousand Dollars ($2,000.00) for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

(b) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) **Other Remedies.** The Town of Big Bend shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

State Law Reference: Sec. 66.0109, Wis. Stats.

Sec. 1-1-7 Clerk-Treasurer to Maintain Copies of Documents Incorporated by Reference.

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Town Clerk-Treasurer shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Town Clerk-Treasurer office shall be considered public records open to reasonable examination by any person during the office hours of the Town Clerk-Treasurer subject to such restrictions on examination as the Clerk-Treasurer imposes for the preservation of the material.

Title 1 ► Chapter 2

Issuance of Citations

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Sec. 1-2-1 Method of Enforcement.

The Town of Big Bend hereby elects to use the citation method of enforcement of ordinances. The Town Chair, all Town law enforcement officers, and other Town personnel charged with the responsibility of enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Sec. 66.0113, Wis. Stats., to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

Sec. 1-2-2 Information Contained in Citation.

The citation shall contain the following:

(a) The name and address of the alleged violator.
(b) Factual allegations describing the alleged violation.
(c) The time and place of the offense.
(d) The Section of the Ordinance and/or state statute violated.
(e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
(f) The time at which the alleged violator may appear in court.
(g) A statement which, in essence, informs the alleged violator:
  (1) That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Town Clerk-Treasurer prior to the time of the scheduled court appearance.
  (2) That, if a deposit is made, no appearance in court is necessary unless he/she is subsequently summoned.
  (3) That, if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
  (4) That, if no cash deposit is made and the alleged violator does not appear in court at

the time specified, an action may be commenced to collect the forfeiture.

(5) That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093.

(h) A direction that, if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (g) above has been read. Such statement shall be sent or brought with the cash deposit.

(i) Such other information as the Town deems necessary.

Sec. 1-2-3 Form of Citation.

The Town may choose to use the uniform citation and complaint form provided by the Wisconsin Department of Administration.

The form of the citation to be issued by law enforcement officers or other designated Town officials is incorporated herein by reference and shall provide for the following information:

(a) The name and address of the alleged violator;

(b) The factual allegations describing the alleged violation;

(c) The date and place of the offense;

(d) The Section of the Ordinance violated;

(e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so;

(f) The time at which the alleged violator may appear in court;

(g) A statement which, in essence, informs the alleged violator:

(1) That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time;

(2) That, if the alleged violator makes such a deposit, he/she need not appear in court unless subsequently summoned;

(3) That, if the alleged violator makes a cash deposit and does not appear in court, he will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by Section 165.87, Wis. Stats., and court costs as imposed by Section 800.10, Wis. Stats., not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest;

(4) That, If the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by Section 165.87, Wis. Stats.

(5) That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon

the alleged violator into court to determine if restitution shall be ordered under s. 800.093.

(h) A direction that, if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he read the statement required under Subsection (g) and shall send the signed statement with the cash deposit;

(i) Such other information as may be deemed necessary.

Sec. 1-2-4 Schedule of Deposits.

(a) The schedule of cash deposits shall be established by the Town Board for use with citations issued under this Chapter according to the penalty provision of this Code, a copy of which is on file with the Town Clerk-Treasurer.

(b) The schedule of cash deposits may be established and amended by resolution of the Town Board.

(c) Deposits shall be made in cash, money order or certified check to the Clerk of Court who shall provide a receipt therefor.

Sec. 1-2-5 Issuance of Citation.

(a) **Law Enforcement Officer.** Any law enforcement officer may issue citations authorized under this Chapter or any Town ordinance.

(b) **The Town Chair**. The Town Chair may issue citations for any ordinance violation.

(c) **Town Officials.** The following Town officials may issue citations with respect to those specified Ordinances which are directly related to their official responsibilities:

a. Building Inspector.

b. Fire Inspector.

(d) **Delegated Authority.** The Town officials named in Subsection (c) above may delegate their authority to issue citations to their subordinates, provided such delegation is authorized by the Town Board.

(e) **Town Agents**. The Town Board may designate agents to issue citations.

Sec. 1-2-6 Procedure.

Section 66.0113, Wis. Stats., relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

Sec. 1-2-7 Non-exclusivity.

(a) **Other Ordinance.** Adoption of this Chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance, including, but not limited to, summons and complaint, relating to the same or other matter.

(b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

Title 1 ► Chapter 3

Fee Schedule

1-3-1 Fee Schedule

The Town Fee Schedule shall be adopted by resolution of the Town Board, a copy of which may be obtained from the Town Clerk.

TITLE 2

Government and Administration

Chapter 1	**General Provisions and Elections**
Chapter 2	**Town Board**
Chapter 3	**Town Officers and Employees**
Chapter 4	**Boards, Commissions and Committees**
Chapter 5	**Ethics Code**

General Provisions and Elections

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2-1-2 Village Powers
2-1-3 Polling Place
2-1-4 Election Poll Hours; Works; Wards
2-1-5 Official Newspaper

Sec. 2-1-1 Legal Status; General Town Powers.

The Town of Big Bend, Rusk County, Wisconsin is a body corporate and politic, with all of those powers granted by law. The Town shall be designated in all actions and proceedings by its name as the Town of Big Bend, and throughout Town ordinances as the "Town."

Sec. 2-1-2 Village Powers.

The Town Meeting having, by resolution, directed the Town Board to exercise all powers relating to villages and conferred on village boards by Chapter 61, Wis. Stats., the Town of Big Bend shall have said powers through its Board. This is a continuing grant of powers.

State Law Reference: Sections 60.10(2)(c), 60.22(3) and Ch. 61, Wis. Stats.

Sec. 2-1-3 Polling Place.

The polling place serving all wards in the Town of Big Bend shall be the Town of Big Bend Town Hall.

Sec. 2-1-4 Election Workers.

(a) **Number of Election Officials.**

(1) The Town Clerk-Treasurer shall be authorized to employ election officials (poll workers and tabulators) for each election sufficient to conduct said election effectively, the minimum number of election officials necessary at any one time for any one (1) election being three (3). It is further authorized that two (2) sets of election officials may be used at different times at any one (1) election with the total number of election officials working at one time to be an odd number.

(2) The Town Clerk-Treasurer shall have the power to limit or reduce the number of election officials. The Town Clerk-Treasurer shall determine in advance of each

election whether the number of election officials for such election should be reduced from the number prescribed by the Wisconsin Statutes, and if such a reduction is so determined, the Town Clerk- Treasurer shall further redistribute duties among the remaining officials.

(b) **Tabulators.** The Town Clerk-Treasurer may deem necessary from time to time to select and employ tabulators for certain elections due to the high projected voter turnout. Tabulators shall assist and be under the direction of the election officials after the close of the polls. The Town Clerk-Treasurer shall select and employ tabulators, if needed, for any election.

(c) **Wards.**

(1) Wards have been established in the Town of Big Bend for election purposes. The wards reflect the school districts in the Town of Big Bend. However, there are various elections where Town electors from more than one (1) ward vote for offices that are identical to those in other wards, and the Town Board has determined that tabulating vote totals by ward requires more time by election officials and occasionally require more inspectors to work at elections. Thus, the Town Board has determined that there is no administrative advantage to having vote totals by ward when voting for common offices.

(2) For the reasons stated above, the Town Board has determined that wards will be combined for vote reporting purposes for those wards voting for common office(s).

State Law Reference: Section 7.30, Wis. Stats.

Sec. 2-1-5 Official Newspaper.

The Town of Big Bend shall use posting pursuant to the Wisconsin Statutes as its means of giving notice. When publication is required by the Wisconsin Statutes or when directed by the Town Board as a substitute to posting, the newspaper to be used shall be the *Ladysmith News*, or as otherwise determined by the Town Board.

Title 2 ► Chapter 2

Town Board

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2-2-3	Powers and Duties of Town Board Chairperson
2-2-4	Internal Powers of the Board
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Sec. 2-2-1 Town Board; Elections to.

Membership. The Town Board supervisors shall be elected pursuant to Sec. 60.20 and 60.30, Wis. Stats.

Sec. 2-2-2 General Powers and Duties of the Town Board.

The Town Board of the Town of Big Bend has the specific authority, powers and duties, pursuant to Chapter 60 and all other applicable law.

Sec. 2-2-3 Powers and Duties of Town Board Chairperson.

General Powers and Duties. The Town Board Chairperson shall have all powers and duties pursuant to Sec. 60.24 and other applicable law.

Sec. 2-2-4 Internal Powers of the Board.

Pursuant to its Village Powers under Sec. 60.22(3) and 61.32, Wis. Stats., the Town Board has power to preserve order at its meetings, compel attendance of Supervisors and punish nonattendance.

Sec. 2-2-5 Meetings of the Town Board.

Regular meetings of the Town Board of the Town of Big Bend will be held at the Big Bend Town Hall at 7:00 p.m. on the first Wednesday of each month, or as otherwise determined by the Town Board. Any regular meeting of the Town Board falling upon a legal holiday shall be held on the day designated by the Town Board. Any meeting of the Town Board, including any special or adjourned meetings that are not held at the Town Hall but at any other substitute location, shall be in compliance with the open meeting law.

Sec. 2-2-6 Special Meetings of the Board.

(a) Any special meeting of the Town Board may be called by the Chairperson or two (2) members of the Town Board of the Town of Big Bend in writing with the written call for the special meeting of the Town Board filed with the Town Clerk-Treasurer

(b) No special meeting of the Town Board shall be held unless the notice requirements of the State Open Meeting Law, Wis. Stats., have been met.

(c) The Town Clerk-Treasurer, upon receipt of the written call for the special meeting of the Town Board, shall immediately attempt to notify each member of the Town Board by one or more of the following: telephone, email if the member has email, delivering written notice or by having the written notice delivered personally to each member of the Town Board. If any member of the Town Board cannot be personally notified in writing, then the Town Clerk-Treasurer shall deliver or have delivered a copy of the written notice at the home of any such member of the Town Board in the presence of an adult member of the family of the Town Board member. If any member of the Town Board cannot be noticed in writing through an adult family member as noted above, then the Town Clerk-Treasurer shall post such special meeting written notice in the above noted three (3) usual and customary locations.

(d) The Town Clerk-Treasurer shall file proof of service of such special meeting notice by filing an affidavit noting the time, place and location of authorized service of the special meeting notice upon the Town Board. If personal service upon any member of the Town Board was not completed, then the Town Clerk-Treasurer shall so state in the affidavit the type of service or written notice completed.

(e) Special meetings of the Town Board may be held without such service and notice when all members of the Town Board are present in person or consent in writing to holding of any special meeting of the Town Board. Any consent by any member of the Town Board shall

be filed by the Town Clerk-Treasurer prior to the beginning of any special meeting of the Town Board.

(f) Special meetings of the Town Board attended by a quorum of the members shall be considered a regular meeting of the Town Board for the transaction of any Town of Big Bend business that may come before the Town Board if such regular Town business was so noted in the written notice to the public as required by the State Open Meeting Law, Sec. 19.82, Wis. Stats.

Sec. 2-2-7 Open Meetings.

All Town Board and Town committee and commission meetings shall be open to the public and be in compliance with Wisconsin's Open Meeting Law, except when a closed session is permitted by law.

State Law Reference: Ch. 19, Subch. IV, Wis. Stats.

Sec. 2-2-8 Quorum.

A majority of the Board shall constitute a quorum, but a lesser number may adjourn if a majority is not present. The Chairperson shall be counted in determining whether a quorum exists. If no legal quorum is present at the time of the initial roll call, the meeting of the Town Board may be delayed for a reasonable time, or may be adjourned by the members of the Town Board present to a specific date and hour in the future.

Sec. 2-2-9 Presiding Officer; Absence of Chairperson or Clerk-Treasurer.

(a) **Chairperson to Preside.** The Chairperson shall preside at all meetings of the Town Board when present.

(b) **Absence of Chairperson at Call to Order of Meeting.**

(1) If the Town Chairperson is not present at the time for the call to order, the senior member of the Town Board present, known as "Supervisor I", based on date of original election as a member of the Town Board, shall call the meeting of the Town Board to order, call the initial roll call and shall preside until the Town Chairperson is able to preside at the meeting of the Town Board.

(2) If the Town Chairperson will not be able to, at anytime, preside at the meeting, the Town Board shall make this determination after the initial roll call and then by motion elect an acting Town Chairperson for the meeting of the Town Board until the Town Chairperson is able to preside at the meeting.

(c) **Absence of Town Clerk-Treasurer at Meeting.** If the Town Clerk-Treasurer is not present at the time of the initial roll call of the meeting of the Town Board, the Town Chairperson shall appoint the Deputy Clerk-Treasurer or any other person present at the

meeting to be the Town Clerk pro tem. The Town Clerk pro tem shall prepare and maintain minutes of the meeting of the Town Board. The Town Clerk pro tem shall deliver these minutes to the Town Clerk-Treasurer after the end of the meeting of the Town Board or when the Town Clerk pro tem is replaced during the meeting of the Town Board by the Clerk-Treasurer.

Sec. 2-2-10 Order of Business.

(a) **Order of Business.** At all meetings, the following order may be observed in conducting the business of the Town Board:

(1) Call to Order by presiding officer;
(2) Roll call;
(3) Reading and correcting and approving the minutes of the preceding meeting or meetings;
(4) Clerk-Treasurer's report;
(5) Board members' reports;
(6) Comments from citizens present;
(7) Unfinished business remaining from preceding sessions in the order in which it was introduced;
(8) New business; ordinances and resolutions may be introduced and considered;
(9) Payment of bills;
(10) Adjournment.

(b) **Agenda Preparation.**

(1) The Town Clerk-Treasurer shall prepare an agenda incorporating the matters comprising the order of business; and
(2) There may or may not be included on said agenda a time for hearing citizens wishing to address the Board, as shall be determined in advance by the Town Board; and
(3) No matter requiring research, investigation or decision shall be placed on the agenda of the Town Board unless a request to do so is made to the Town Clerk- Treasurer at least five (5) business days prior to the meeting, (except in emergency situations as determined by the Chairperson or Town Clerk-Treasurer), nor shall the agenda be amended to include such matters prior to ordering the meeting, except when the members of the Board unanimously agree to the agenda addition.

(c) **Order to be Followed; Citizen Comments.**

(1) With the exception of closed sessions, and items on the agenda listed after closed sessions, any member of the Town Board may take up any business on the agenda in an order other than as described in the agenda unless there is an objection by any other member of the Town Board.

(2)

a. At meetings of the Town Board no person, other than the members of this Board, shall address the Town Board or any member of the Town Board. This provision shall not apply to:

1. The Town Clerk-Treasurer.
2. Any member of the Town Board.
3. Town Engineer or Town Attorney.

b. This provision shall also not apply under the specific orders of business established to recognize residents of the Town or other persons, under the specific order of business to recognize members of any Town office, Town committee, Town agency, Town commission or a special board or other Town officers or except if the person has specifically requested the right to address the Town Board and then only after the approval of the presiding officer.

c. The Chairperson or presiding officer may impose a time limit on the length of time citizens may address the Board, following the guidelines in Section 2-2-13.

(d) **Roll Call; Procedure When Quorum Not in Attendance.** As soon as the Board shall be called to order, the Clerk-Treasurer shall proceed to call the names of the members of alphabetical order, noting who are present and who are absent and record the same in the proceedings of the Board. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Board may adjourn.

Sec. 2-2-11 Introduction of Business, Resolutions and Ordinances; Disposition of Communications.

(a) **Ordinances to be in Writing.** All ordinances or ordinance amendments submitted to the Board shall be in writing and shall include a descriptive title. All written material introduced shall be reviewed and then discussed and acted upon as the Board deems appropriate.

(b) **Subject and Numbering of Ordinances.** Each Ordinance shall be related to no more than one (1) subject. Amendment or repeal of Ordinances shall only be accomplished if the amending or repealing Ordinance contains the number and title of the Ordinance to be amended or repealed, and the title of amending and repealing Ordinances shall reflect their purpose to amend or repeal.

(c) **Notice.**

(1) The Town Board may take action on an Ordinance only if it appears on the written agenda for meeting at which action is requested in order to provide proper legal notice.

(2) Ordinances will be placed on the agenda for Board action only if they are submitted to the Town Clerk-Treasurer in written form a minimum of five (5) business days prior to the meeting at which action is requested (except in emergency situations as determined by the Chairperson or Town Clerk-Treasurer).

(d) **Disposition of Petitions, Communication, Etc.** Every petition or other writing of any kind, addressed to the Board, Clerk-Treasurer or other Town officer for reference to the Town Board, shall be delivered by the Clerk-Treasurer or such other Town officer to the Chairperson or to the presiding officer of the Board as soon as convenient after receipt of same and, in any event, prior to or at the opening of the next meeting of the Board following the receipt of same.

Sec. 2-2-12 Conduct of Deliberations.

(a) A roll call shall not be necessary on any questions or motions except as follows:

(1) When the aye and no votes are requested by any member.

(2) On confirmation and on the adoption of any measure assessing or levying taxes, appropriations or disbursing money, or creating any liability or charge against the Town or any fund thereof.

(3) When required by the State Statutes of Wisconsin.

(b) All aye and no votes shall be recorded in the official minutes.

(c) Except as provided below, the Town Board shall, in all other respects, determine the rules of its procedure, which shall be governed by a modified form of the ***Robert's Rules of Order,*** unless otherwise provided by Ordinance or Statute, except when otherwise limited or modified by this Code of Ordinances:

(1) No Supervisor shall address the Board until he/she has been recognized by the presiding officer. The Supervisor shall thereupon address himself/herself to the Chairperson and confine his/her remarks to the question under discussion and avoid all personalities.

(2) When two (2) or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

(3) ***Robert's Rules of Order*** may be suspended or a modified form may be used by consensus of the Board; any unanimous vote taken with procedural imperfections under ***Robert's Rules of Order*** is deemed to have also suspended ***Robert's Rules of Order*** and is valid regardless of any procedural imperfection under ***Robert's Rules of Order***.

Sec. 2-2-13 Procedure at Public Hearings.

(a) The Chairperson shall call a public hearing to order. The Chair person shall set reasonable time limits per person of no less than 3 minutes. The Chair shall maintain decorum during the public hearing, and any person unwilling to accept the rules may be asked to leave.

(b) Each person wishing to speak shall be asked to give his or her name and address.

(c) The Chairperson shall call on those persons who wish to speak for the proposition.

(d) The Chairperson shall then call on those persons who wish to speak in opposition to the proposition.

(e) Any person wishing to speak in rebuttal to any statements made may request permission from the Chairperson, provided, however, such rebuttal statement shall be limited to three (3) minutes by any one (1) individual.

(f) When the Chairperson in his or her discretion is satisfied that the proposition has been heard, he/she shall announce the fact that the hearing is concluded.

Sec. 2-2-14 Voting.

(a) **Change of Vote.** No member of the Town Board may change his or her vote on any action item, business item, motion or question after the final result has been announced.

(b) **Public Directory Votes.** No member of the Town Board shall request, at a meeting of the Town Board, a vote from the general public unless the proposed vote of the general public is so noted by the Town Chair or the presiding officer of the meeting as strictly an advisory vote to the Board. Any vote taken by the general public at a meeting of the Town Board shall be considered by this Board only as an advisory vote and shall not be considered as a directory vote. Directory votes to require certain actions to be taken by the Town Board may occur at an annual or special Town meeting, within the confines of Chapter 60, Wis. Stat.

Sec. 2-2-15 Reconsideration of Questions.

It shall be in order for any member if, in the majority, to move for the reconsideration of any vote in question at the same meeting or at the next succeeding regular adjourned meeting. A motion to reconsider being put and lost shall not be renewed.

Sec. 2-2-16 Publication or Posting of Ordinances and Resolutions.

(a) **General Requirement.**

(1) The Town Clerk-Treasurer shall post or publish all ordinances and resolutions pursuant to Sec. 60.80, Wis. Stats, and as otherwise required by law.

(2) All ordinances and bylaws shall be signed by the Town Chair and countersigned by the Clerk-Treasurer; and, if any penalty or forfeiture is thereby imposed, shall be published as a Class 1 notice, under Ch. 985, Wis. Stats., and shall take effect on the day after its publication or a later date if expressly prescribed.

(b) **Requirement for Forfeitures.** If an ordinance imposes a forfeiture, posting may not be used in lieu of publication.

(c) **Effective Upon Publication or Posting.** An ordinance, resolution, motion or other action required to be published or posted under this Section shall take effect the day after its publication or posting, or at a later date if expressly provided in the ordinance, resolution, motion or action.

(d) **Affidavit of Posting.** If an ordinance, resolution, motion or other action is posted under this Section, the Clerk-Treasurer shall sign an affidavit attesting that the item was posted as required by this Section and stating the date and place of posting. The affidavit shall be filed with other records under the jurisdiction of the Clerk-Treasurer.

State Law Reference: Section 60.80, Wis. Stats.

Sec. 2-2-17 Amendment of Rules.

The rules of this Chapter concerning ordinances shall not be rescinded or amended unless the proposed ordinance amendment or motion to rescind has laid over from a regular meeting.

Sec. 2-2-18 Suspension of Rules.

Any of the provisions of Chapter 2 of this Code may be suspended temporarily by a majority of the Board members, except those procedures required by state law.

Title 2 ► Chapter 3

Town Officers and Employees

2-3-1 Election of Town Officers; General Provisions; Appointed Officials
2-3-2 Compensation of Elective Town Offices
2-3-3 Reimbursement of Expenses
2-3-4 Compensation When Acting in More Than One Official Capacity
2-3-5 Town Clerk-Treasurer
2-3-6 Assessor
2-3-7 Town Attorney
2-3-8 Town Engineer
2-3-9 Town Auditor/Accountant
2-3-10 Town Employees; Special Office Positions
2-3-11 Custody of Official Property
2-3-12 Eligibility for Office/Incompatibility of Office
2-3-13 Form of Oath and Bond

Sec. 2-3-1 Election of Town Officers; General Provisions; Appointed Officials.

Restrictions.

(1) No person may hold the offices of Town Treasurer and Town Assessor at the same time. No person may assume the office of Town Assessor unless certified by the Wisconsin Department of Revenue, under Sec. 73.09, as qualified to perform the functions of the office of Town Assessor. If the Town reverts to a system of electing instead of appointing the Assessor and a person is elected to the office and is not certified by June 1 of the year elected, the office is vacant and the Town Board shall fill the vacancy from a list of persons certified by the Wisconsin Department of Revenue.

State Law Reference: Section 60.30, Wis. Stats.

Sec. 2-3-2 Compensation of Elective Town Offices.

Compensation of elected officers shall be pursuant to applicable law.

State Law Reference: Section 60.32, Wis. Stats.

Sec. 2-3-3 Reimbursement of Expenses.

(a) **Generally.** The Town Board may provide for reimbursement of expenses necessarily incurred by any office or employee of the Town in the performance of official Town duties. The Board may determine who is eligible for expense reimbursement, which expenses are reimbursable and the amount of reimbursement. Expenses reimbursable under this Section include, but are not limited to:

(1) Traveling expenses, including mileage, lodging and meal expenses.

(2) Costs associated with programs of instruction related to the officer's or employee's office or employment.

(b) **Manuals.** The Town Board may purchase handbooks and manuals that will materially assist Town officials and employees in the performance of official duties.

State Law Reference: Section 60.321, Wis. Stats.

Sec. 2-3-4 Compensation When Acting in More Than One Official Capacity.

Except for offices combined under Sec. 60.305, Wis. Stats., and except pursuant to Sec. 60.37, Wis. Stats., the Town may not compensate a Town officer for acting in more than one (1) official capacity or office of the Town at the same time.

State Law Reference: Secs. 60.323 and 946.13, Wis. Stats.

Sec. 2-3-5 Town Clerk-Treasurer.

Consolidated Positions. Pursuant to Sec. 60.305(1), Wis. Stats., the Town of Big Bend, as directed by the Town Meeting, consolidates the offices of Town Clerk and Town Treasurer. The Town Clerk-Treasurer, shall have the statutory duties of a town clerk-treasurer and such other duties as are prescribed by the Town Board.

Sec. 2-3-6 Assessor.

(a) **Qualification.**

(1) The Assessor, or assessment firm, shall be certified by the Wisconsin Department of Revenue under Section 73.03(2)(b), Wis. Stats., as qualified to perform the functions of an Assessor. The Town Assessor is appointed for an indefinite term of office. Pursuant to Sec. 60.307(2), Wis. Stats.,

(2) The Town has elected to change the Office of Assessor to an appointed position. Pursuant to Sec. 60.307(2), Wis. Stats., the Assessor is appointed by majority vote of the Town Board for a term as determined by contract, but not less than one (1) year. The Town Assessor so appointed need not be a resident of the Town of Big Bend and may hold the office of Assessor for another town or municipality with the consent of the Town Board.

(b) **Duties.** The Town Assessor shall have all the statutory authority, powers and duties for property tax assessment required of the Town Assessor pursuant to Chapters 60, 66, 70 and 79, Wis. Stats. The Assessor shall begin under Section 70.10, Wis. Stats., to make an assessment of all of the property in the Town liable to taxation, as prescribed by law. The Assessor shall return the assessment roll to the Town Clerk-Treasurer at the same time and in the same manner in which Town Assessors are required to do as required by Chapter 70, Wis. Stats.

State Law Reference: Section 60.307(2) and Ch. 70, Wis. Stats.
Annotation: Petzek vs. Graves, 33 Wis. 2d 175 (1967).

Sec. 2-3-7 Town Attorney.

Election. The Office of Town Attorney is an appointed position. The Town Attorney may be appointed by the Town Board and shall serve at the pleasure of the Board. The Town Board shall negotiate and establish the compensation in a contract for the designation, retention or employment of an attorney based on a regular salary, per diem rate, retainer, hourly rate, or other methods agreed to by the attorney and the Town Board. The Town Board may contract with an attorney rather than employing an attorney.

Sec 2-3-8 Town Engineer.

The office of Town Engineer is an appointed position. The Town Engineer may be appointed by the Town Board and shall serve at the pleasure of the Board. When authorized by the Town Board, the Town Engineer shall provide engineering services to the Town. Prior to providing engineering services when necessitated by a private party's development or other activities, the Town Board may require a private party to agree to pay the cost of engineering services provided to the Town when the private party's activities or requests created the need for such expenditures.

Sec. 2-3-9 Town Auditor/Accountant.

(a) **Retention.** The Town Board may, pursuant to Sections 60.41 and 60.43, Wis. Stats., designate, contract with or employ one (1) or more accountants, including certified public accountants, on a temporary or continuing basis for financial matters or to represent the Town in financial matters.

(b) **Compensation.** The Town Board shall negotiate and establish the compensation in a contract for the designation, retention or employment of an accountant based on a regular salary, per diem rate, retainer, hourly rate or other methods agreed to by the accountant and the Town Board.

(c) **Duties.** The accountant has the duties and powers established in Sections 60.41 and 60.43, Wis. Stats., plus any additional powers and duties established pursuant to the retainer contract between the accountant and the Town Board. The appropriate bond shall be filed prior to the Town Board executing the written contract.

Sec. 2-3-10 Town Employees; Special Office Positions.

(a) **Town Employees.** The Town Board may employ on a temporary or regular basis persons necessary to carry out the functions of Town government. The Board may establish the qualifications and terms of employment. The Board may delegate the authority to hire Town employees to any Town official or employee.

(b) **Meeting Attendance.** Town office holders shall attend or make all good faith efforts to attend all properly called meetings of the Town Board if their attendance is requested at least three (3) days prior to the meeting, or as established by professional services agreement.

State Law Reference: Section 60.37, Wis. Stats.

Sec. 2-3-11 Custody of Official Property.

Town officers must observe the standards of care imposed by Section 19.21, Wis. Stats., with respect to the care and custody of official property.

State Law Reference: Section 19.21, Wis. Stats.

Sec. 2-3-12 Eligibility for Office/Incompatibility of Office.

(a) Any person who is a qualified elector in the Town of Big Bend may hold any elected Town office. Except pursuant to Sec. 60.37, no member of the Town Board may, during his or her term, be eligible for any Town office or Town position which, during such term, the office or position has been created by or the selection to which is vested in the Town Board. Any member of the Town Board will be eligible for such Town office or Town position if he or she resigns from the Town Board before being appointed to the Town office or Town position and if the office or position was not created during his or her term in office.

(b) Certain Town offices are incompatible, by common law and statutory law, with other Town offices and also with other county, state or federal offices. When said law applies, no Town officer shall serve in both offices at the same time. If any question or concern by any person is raised to the Town Board regarding incompatibility of any office in the Town of Big Bend, the Town Attorney, at the request of the Town Board, shall review the matter and shall provide his or her written comments to the Town Board.

Sec. 2-3-13 Official Oath and Bond.

(a) **Authority.** The Town Board has the specific statutory authority, powers and duties, pursuant to Sections 60.20, 60.22 and 60.31, Wis. Stats., and under this Code of Ordinances, to require that certain elected officials take an official oath and to require that they file the appropriate bond.

(b) **Oath.**

(1) ***General Provision***. All elected officers and appointed officers of the Town of Big Bend, except elected assessors and municipal judges, (if such position is established), shall take and file the below noted oath within five (5) days after notification of election or appointment by the Town Clerk-Treasurer. The written oath of office and the oral oath of office, pursuant to Sec. 19.01, Wis. Stats., shall be as required by Sec. 19.01, Wis. Stat.

(c) **Bonds.**

(1) ***General Provision.*** The bond costs shall be provided by the Town of Big Bend. No natural person may be a surety on a bond. The bond may be furnished by a surety company under Sec. 632.17(2), Wis. Stats. The Town Board may at any time determine that any bond amount established is insufficient or in excess and may therefore require any officer noted above to file a new bond within ten (10) days, in an amount fixed by the Town Board.

(2) ***Filing Location.*** The official bond shall be filed with the Town Clerk-Treasurer except that the municipal justice shall file his or her bond with the Clerk of Circuit Court.

(3) ***Failure to File Bond.*** The elected officers and appointed officers of the Town required to file a bond shall file the required bond before entering upon the duties of the office. If the elected officers and appointed officers of the Town fail to file the required bond within the time prescribed by law, the failure to file the required bond constitutes refusal to serve in office and the office can be declared vacant by the Town Board, pursuant to law. No Municipal Judge of the Town shall be paid a salary for anytime during the term during which the Municipal Judge has not executed and filed the required bond.

Title 2 ► Chapter 4

Boards, Commissions and Committees

2-4-1 Board of Review
2-4-2 General Provisions Regarding Meetings and Public Notice

Sec. 2-4-1 Board of Review.

(a) **Composition.** The Board of Review shall consist of the Chairperson, Town Board Supervisors and Town Clerk-Treasurer. At least one member shall have completed Department of Revenue training.

(b) **Duties.** The duties and functions of the Board of Review shall be as prescribed in Secs. 70.46 and 70.47, Wis. Stats.

(c) **Meetings.** The Board of Review shall meet annually on the second Monday of May, or any day within the next thirty (30) days, at the Town Hall of the Town of Big Bend, and notice of such meeting shall be published pursuant to the State Statutes. The Board, through its Clerk-Treasurer, shall establish its meeting hours pursuant to Sec. 70.47(3)(b), Wis. Stats. The Board may adjourn from day to day or from time to time, until such time as its business is completed, providing that adequate notice of each adjournment is so given..

(d) **Compensation.** Compensation for Board of Review members shall be as established by the Town Board.

(e) Objections to Assessments shall be made pursuant to Chapter 70, Wis. Stat.

State Law Reference: Secs. 70.46 and 70.47, Wis. Stats.

Sec. 2-4-2 General Provisions Regarding Meetings and Public Notice.

(a) **Regular Meetings; Public Notice.**
Every Board, Committee and Commission created by or existing under the authority of the Town shall comply with the Wisconsin Open Meeting law.

(b) **Notice to Members.** Every member of any board, commission or committee of the Town of Big Bend shall be notified by the secretary thereof that a meeting is to be held, and the time and place of such meeting and the subject to be considered thereat. No member shall be intentionally excluded from any meeting by a failure to give proper

notice or a reasonable attempt to give proper notice to such member.

(c) **Special Meetings.** Nothing in Subsection (a) shall preclude the calling of a special meeting or dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Chapter 19, Wis. Stats.

(d) **Minutes to Be Kept.** Every board, commission and committee shall keep a record of the minutes of its proceedings and shall cause a signed copy thereof to be filed by its secretary with the Town Clerk-Treasurer within one (1) week of the meeting date.

Title 2 ► Chapter 5

Ethics Code

Sec. 2-5-1 Statement of Purpose.

(a) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this Chapter a Code of Ethics for all Town of Big Bend officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Town, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the Town.

(b) The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Town of Big Bend and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Town. The Town Board believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this Town in their elected and appointed officials and employees. The Town Board hereby reaffirms that each elected and appointed Town official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such rules and regulations as may be established are hereby declared to be in the best interests of the Town of Big Bend.

Title 3

Finance and Public Records

Chapter 1	**Finance**
Chapter 2	**Special Assessments**
Chapter 3	**Public Records**
Chapter 4	**Public Building Use**

Title 3 ► Chapter 1

Finance

3.1-1	Fiscal Management
3.1-2	Preparation and Adoption of Budget
3.1-3	Changes in Budget
3.1-4	Town Funds to Be Spent in Accordance with Appropriation
3.1-5	Annual Financial Statement
3.1-6	Finance Book
3.1-7	Financial Audits
3.1-8	Claims Against Town
3.1-9	Disbursements from Town Treasury
3.1-10	Facsimile Signatures
3.1-11	Public Depository
3.1-12	Temporary Investment of Funds Not Immediately Needed
3.1-13	Public Contracts and Competitive Bidding
3.1-14	Receiving Money; Receipt for Same
3.1-15	Duplicate Treasurer's Bond Eliminated
3.1-16	Statement of Real Property Status
3.1-17	Accounts Receivable
3.1-18	Annual Audits
3.1-19	Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs
3.1-20	Policy for Public Deposits and Investments

Sec. 3-1-1 Fiscal Management.

The Town Board of the Town of Big Bend has the specific authority, powers and duties pursuant to law, including but not limited to Chapters 60, 65, 66, 67, 70 and 74, Wis. Stats., to manage, supervise and direct the fiscal operations of the Town of Big Bend and to develop, maintain and implement a fiscal management system for the Town.

Sec. 3-1-2 Preparation and Adoption of Budget.

(a) **Fiscal Year; Annual Budget.** The Town of Big Bend fiscal year is the calendar year. The Town budget shall be adopted annually.

(b) **Preparation.** The Town Board is responsible for preparation of the proposed budget required under Sec. 65.90, Wis. Stats. In preparing the budget, the Town Board may provide for assistance by any person.

(1) **Elements of Budget.** Each budget and budget summary prepared by and approved by the Town Board shall prepare the budget pursuant to Sec. 65.90, Wis. Stats, and other applicable law.

(c) **Copies of Budget.** The Town shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(d) **Hearing.** The Town Board shall conduct the budget hearing required under Sec. 65.90, Wis. Stats.

(e) **Adoption.** The Town Board shall adopt the Town budget. The Town meeting may either retain authority to approve any tax levy needed to support spending approved by the Town Board or may delegate the authority to approve a tax levy to the Board.

(f) **Amendment.** The Town budget may be amended by the Town Board under Sec. 65.90(5), Wis. Stats.

State Law Reference: Secs. 60.40 and 65.90, Wis. Stats.

Sec. 3-1-3 Changes in Budget.

The adopted budget shall not be changed after approval of the budget except upon the recommendation of the Chairperson and upon a roll call two-thirds (2/3) vote of the entire membership of the Town Board. Notice of such change shall be given as required by law.

Sec. 3-1-4 Town Funds to Be Spent in Accordance with Appropriation.

No money shall be drawn from the treasury of the Town, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-3 of this Chapter. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

Sec. 3-1-5 Annual Financial Statement.

The Town Board annually shall prepare a statement of the financial condition of the Town and present the statement to the annual town meeting. In preparing the statement, the Town Board may provide for assistance by any person. The statement shall include the previous year's revenues and expenditures and the current indebtedness of the Town.

State Law Reference: Sec. 60.41, Wis. Stats.

Sec. 3-1-6 Finance Book.

The Town Clerk-Treasurer shall maintain a finance book under Sec. 60.33(3), Wis. Stats.

Sec. 3-1-7 Financial Audits.

The Town Board shall provide for financial audits under Secs. 60.43 and 66.0605, Wis. Stats.

State Law Reference: Secs. 60.43, and 66.0605, Wis. Stats.

Sec. 3-1-8 Claims Against Town.

(a) **Legal Claims Against the Town.**

(1) Wisconsin Statutes manage and control any legal claims against the Town of Big Bend, its officers, its employees and its agents. Claims for money against the Town or against officers, officials, agents or employees of the Town arising out of acts done in their official capacity shall be filed with the Town Clerk-Treasurer as provided under Sec. 893.80(1)(b), Wis. Stats. The Town Clerk-Treasurer shall immediately contact the Town Chairperson regarding the claims. The Town Chairperson shall arrange any appropriate and necessary meeting of the Town Board for actions pursuant to Sections 60.44 and 893.80, Wis. Stats., to allow or disallow any claim. The Town Chairperson shall, at his or her discretion, contact the Town Attorney regarding the claim prior to the meeting of the Town Board.

(2) The Town Board shall allow or disallow the claim. Notice of disallowance shall be made as provided under Sec. 893.80(l)(b), Wis. Stats.

(b) **Claims Procedure.**

(1) The Town, having adopted a resolution to direct the Town Board to exercise Village Board powers under Sec. 60.10(2)(c), Wis. Stats., does now enact an alternative system of approving certain regular financial claims against the Town by virtue of the provisions of Sec. 66.0609, Wis. Stats.

(2) Payments may be made from the Town treasury after the Clerk-Treasurer audits and approves each claim as a proper charge and endorses his/her approval on the claim after having determined that the following conditions have been met:

a. That funds are available therefor under the budget approved by the Town Board.

b. That the service covered by such claim has been authorized by the proper official, department head, board or commission.

c. That the service has been actually rendered in conformity with such authorization.

d. That the claim is just and valid according to law. The Clerk-Treasurer may require the submission of such proof and evidence to support the above as he/she may deem necessary.

(3) The authority extended to the Town Clerk-Treasurer above shall apply only to the regular payroll checks of Town employees and the salaries of elected Town officials. All other claims against the Town will be examined and approved in accordance with the applicable law.

(4) The Clerk-Treasurer shall file with the Town Board, not less than monthly, a list of the

claims approved showing the date paid, name of claimant, purpose and amount.

(5) The Town Board shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Ch. 442, Wis. Stats., and designated by the Town Board.

State Law Reference: Sec. 60.44, Wis. Stats.

Sec. 3-1-9 Disbursements from Town Treasury.

Disbursements from the Town treasury shall be made under Sec. 66.0607, Wis. Stats. No claim, account or demand for payment against the Town shall be paid until a voucher has been filed with or prepared by the Town Clerk-Treasurer. Each check representing a disbursement or transfer of Town funds must be signed by the Town Clerk-Treasurer and Town Chairperson.

State Law Reference: Sec. 60.45, Wis. Stats.

Sec. 3-1-10 Facsimile Signatures.

In lieu of the personal signatures of the Town Clerk-Treasurer and Chairperson, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Town Board, but the use of the facsimile signature shall not relieve such official from any liability to which he/she is otherwise subject, including the unauthorized use thereof.

Sec. 3-1-11 Public Depository.

The Town Board shall designate one (1) or more public depositories for depositing funds of the Town. These public depositories shall be approved financial institutions as noted in Sec. 66.0603, Wis. Stats. The Clerk-Treasurer and the Clerk-Treasurer's surety are not liable for loss, as defined under Chapter 34, Wis. Stats., or money deposited in the name of the Town in a designated public depository. Interest accruing from Town money in a public depository shall be credited to the Town.

State Law Reference: Sec. 60.46, Wis. Stats.

Sec. 3-1-12 Temporary Investment of Funds Not Immediately Needed.

(a) The Town Clerk-Treasurer, in cooperation with the Town Board, may invest any Town long-term funds and temporary funds not immediately needed, pursuant to Sections 66.0603 and 219.05, Wis. Stats.

(b) The Town Board and the Town Clerk-Treasurer shall use the following criteria in determining the financial options available for investing the financial assets of the Town:

(1) The safety of the investment.

(2) The maturity of the investment.

(3) The liquidity of the investment.
(4) The yield of the investment.
(5) The other services available to the Town with the investment.

State Law Reference: Secs. 66.0605 and 219.05, Wis. Stats.

Sec. 3-1-13 Public Contracts and Competitive Bidding.

Public Contracts shall be bid as required by Sec. 60.47, Wis. Stats.

State Law Reference: Sec. 60.47, Wis. Stats.

Sec. 3-1-14 Receiving Money; Receipt for Same.

(a) The Town Clerk-Treasurer shall not receive any money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Town Board.
(b) Upon the payment of any money (except for taxes as herein provided), the Clerk-Treasurer shall make out a receipt in duplicate for the money so received. The Clerk-Treasurer shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Town or to the Town or to the Clerk-Treasurer shall be safeguarded in such manner as the Town Board shall direct.

State Law Reference: Sec. 66.0607, Wis. Stats.

Sec. 3-1-15 Duplicate Treasurer's Bond Eliminated.

The Town of Big Bend elects not to give the bond on the Town Clerk-Treasurer provided for by Sec. 70.67(1), Wis. Stats., and makes itself obligated to make any payments as required by said statute.

State Law Reference: Sec. 70.67, Wis. Stats.

Sec. 3-1-16 Statement of Real Property Status.

The Town Clerk-Treasurer and designees are authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, contemplated improvement, floodplain status, violation of the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. The Town Clerk-Treasurer and/or designees may collect a fee, as prescribed in Section 1-3-1, payable at the time a request for compiling such

information on said form. The Town Clerk-Treasurer and/or designees shall have a minimum of five (5) business days during the regular work week to satisfy such requests. Neither the Town nor its officials assume any liability when providing this service.

Sec. 3-1-17 Accounts Receivable Billing Procedures.

Billings by the Town may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the first (1st) day of November may have added to the total amount due one and one- half percent (1-1/2%) of said charges and may be entered on the tax roll as a special charge and become a lien upon real estate.

Sec. 3-1-18 Annual Audits.

A firm of certified public accountants shall be employed each year by the Town, subject to the confirmation of the Town Board to conduct a detailed audit of the Town's financial transactions and its books, and to assist the Town Clerk-Treasurer in the management of the Town's financial affairs. These auditors shall be employed on a calendar-year basis. The books audited shall, in addition to the Town financial records of the office of the Town Clerk-Treasurer, and only include books of any other boards, commission, officers or employees of the Town handling Town monies.

Sec. 3-1-19 Fee for Returning Checks with Insufficient Funds; Reimbursement of Collection Costs.

(a) There shall be a fee in accordance with the Town Board's current fee schedule for processing checks made payable to the Town that are returned because of insufficient funds in the account in question.

(b) Collection costs and attorney's fees shall be added to the principal amounts of unpaid bills owed to the Town that are placed with collection agencies.

Sec. 3-1-20 Policy for Public Deposits and Investments.

(a) **Purpose.** It is in the interest of the Town of Big Bend to adopt a policy to insure continuous prudent deposits and investments of available Town funds. The Town Board of the Town of Big Bend establishes the following policies in the public interest for the deposit and investment of available Town funds.

(b) **Public Depositories.**

(1) ***Depositories.*** The Town Board shall, by ordinance or resolution, designate one (1) or more public depositories, organized and doing business under the laws of this state or federal law, and located in Wisconsin, in which the Town Clerk-Treasurer shall deposit all public monies received by her/him.

(2) ***Limitations.*** The resolution or ordinance designating one (1) or more public

depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of Sec. 66.0603, Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under Sec. 34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than One Million Dollars ($1,000,000) shall be deposited in any one (1) public depository, unless specifically authorized by the Town Board.

(3) ***Deposits.*** The Town Clerk-Treasurer shall deposit public monies in the name of the Town of Big Bend in such public depositories designated by the Town Board and subject to the limitations hereinabove set forth.

(4) ***Withdrawals.*** Withdrawals or disbursements by the Town Clerk-Treasurer of monies deposited in a public depository shall be made as provided by Sections 66.0603, Wis. Stats. The Town Clerk-Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money transfer techniques as set forth in Sec. 66.0607, Wis. Stats.

(c) **Miscellaneous.**

(1) ***Liability.*** Notwithstanding any other provision of law, the Town Clerk-Treasurer who deposits public monies in any public depository, in compliance with Sec. 34.05, Wis. Stats., is, under the provisions of Sec. 34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in Sec. 34.01(2), Wis. Stats.

(2) ***Definitions.*** Words or phrases shall, insofar as applicable, have the meaning set forth in Sec. 34.01, Wis. Stats., as amended.

(3) ***Conflicts.*** This Section is enacted in accordance with the provisions of Chapter 34 and Sections 66.0601, 66.0603 and 66.0607, Wis. Stats. In case of conflict, the state laws shall prevail.

Cross-Reference: Section 3-1-12.
State Law Reference: Ch. 34 and Secs. 66.00601, 66.0603 and 66.0607, Wis. Stats.

Title 3 ► Chapter 2

Special Assessments

3-2-1 Town Board May Levy Special Assessments
3-2-2 Special Charges Permissible
3-2-3 Miscellaneous Provisions

Sec. 3-2-1 Town Board May Levy Special Assessments.

(a) The Town of Big Bend may levy and collect special assessments pursuant to this ordinance and Chapter 66, Wis. Stats.

State Law Reference: Section 66.0701, and 66.0703, Wis. Stats.

Sec. 3-2-2 Special Charges Permissible.

(a) In addition to all other methods provided by law, special charges for current services provided to properties may be imposed by the Town Board by allocating all or part of the cost to the property served. Such services may include, but are not limited to, snow and ice removal, weed elimination, street sprinkling, oiling or tarring, garbage and refuse disposal, and tree care or removal. The provision for notice of such charges shall be optional with the Town Board except that, in the case of street, sidewalk, curb or gutter repair, twenty (20) days notice published in the Town newspaper, or by posting such notice in three (3) places in the Town and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Town Board as to whether the service in question shall be performed.

(b) Such special charges shall not be payable in installments. If not paid within the period fixed by the Town Board, such delinquent charge shall become a lien as provided in Sec., 66.0627, Wis. Stats.

Sec. 3-2-3 Miscellaneous Provisions.

(a) If any assessment or charge levied under this Chapter is invalid because such statutes are found to be unconstitutional, the Town Board may thereafter reassess such assessment or

charge pursuant to the provisions of any applicable law.

(b) The Town Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

(c) Notwithstanding any other provision of law or this or other Ordinance or resolution, it is specifically intended and provided by this Chapter that the Town may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

Title 3 ► Chapter 3

Public Records

3.3-1	Definitions
3.3-2	Duty to Maintain Records
3.3-3	Legal Custodian(s)
3.3-4	Public Access to Records
3.3-5	Access Procedures
3.3-6	Limitations on Right to Access
3.3-7	Destruction of Records
3.3-8	Preservation Through Microfilm
3.3-9	Taped Records of Meetings
3.3-10	Confidentiality of Certain Assessor's

Sec. 3-3-1 Definitions.

The definitions found in Sec. 19.32, Wis. Stat. shall be applicable in this Chapter.

Sec. 3-3-2 Duty to Maintain Records.

(a) **Authority.** The Town Board of the Town of Big Bend has the specific authority, powers and duties, pursuant to Wisconsin Statutes, to manage and direct certain affairs related to Town public records.

(b) **Public Record and Public Property Responsibilities.** All public records and public properties belonging to the Town of Big Bend, including records and public properties of officers, special offices, committees, commissions, agencies, authorities, boards or other special government units of the Town shall be safely kept, properly maintained and carefully preserved by the legal custodian thereof when:

(1) These officers, employees or agents receive custody of the public records and public property from their predecessor or other persons.

(2) These public records and public properties are required by state law or by Town ordinance to be filed, deposited or kept in the offices of these officers, employees or agents.

(3) These public records and public properties are in lawful possession of these officers, employees or agents or the possession or control of which these officers, employees

or agents may be lawfully entitled by state law or by Town.

(c) **Responsibility of Office.** Except as provided under Section 3-3-7, each officer and employee of the Town shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(d) **Responsibility Upon Expiration of Officer's Term.** Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Town Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk-Treasurer, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

Sec. 3-3-3 Legal Custodian(s).

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the Town Clerk-Treasurer or his/her designee shall act as legal custodian for all Town records, including records of the Town Board and any committees, commissions, boards or other authorities created by ordinance or resolution of the Town Board. In the event that the Town Clerk-Treasurer is not available, then the Town Clerk- Treasurer shall designate someone to act in his/her behalf as legal custodian.

(c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Ch. 19, Wis. Stats., and this Chapter. The designation of a legal custodian does not affect the powers and duties of an authority under this Section.

Sec. 3-3-4 Public Access to Records.

(a) Except as provided in Section 3-3-6, any person has a right to inspect a record and to make or receipt a copy of any record as provided in Sec. 19.35(1), Wis. Stats.

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours advance notice of intent to inspect or copy. Depending on the nature and scope of the request, additional time may be required by the authority.

(d) A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged. No original public records of the Town shall be removed from the possession of the legal custodian.

(f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

(1) The cost of photocopying shall be a per page fee in accordance with the Town Board's current fee schedule. The Town may charge actual, necessary costs in duplicating or communicating requested records, including facsimile transmissions. Said cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.

(2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged. The Town is not required to purchase or lease for any requesting person any equipment or facilities for photocopying, photographing or other copying.

(3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- or video-tapes, shall be charged.

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(5) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars ($50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester. The Town will determine the cost of locating a record by using the hourly rate in accordance with the Town Board's current fee schedule for employees involved in attempting to locate the record.

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars ($5.00).

(7) Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records or obtain copies of records, and the costs thereof. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Sections 3-3-4 through 3-3-6 of this Chapter. This Subsection does not apply to members of the Town Board.

Sec. 3-3-5 Access Procedures.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats.

(b) Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6).

(c) The legal custodian generally may not request the name of the requesting person or the reasons for the need to access the public record except if the legal custodian keeps the public record at a private residence, or if the legal custodian, for security reasons, believes identification is necessary and appropriate or except if federal law and regulations requires identification of the requesting person. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(d) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Town Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

(e) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five (5) business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

Sec. 3-3-6 Limitations on Right to Access.

(a) A request may be denied in whole or in part pursuant to Sec. 19.36, Wis. Stats. and other applicable state law. The following are some of the reasons a record request may be denied:

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;

(3) Computer programs, although the material used as input for a computer program or

the material produced as a product of the computer program is subject to inspection;

(4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential;

(5) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.

(b) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Town Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the request record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

(2) Pursuant to Sec. 19.85(l)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.

(3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.

(4) Pursuant to Sec. 19.85(l)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.

(5) Pursuant to Sec. 19.85(l)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of Town property, investing of Town funds or other Town business whenever competitive or bargaining reasons require nondisclosure.

(6) Pursuant to Sec. 19.85(l)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Pursuant to Sec. 19.85(l)(g), Wis. Stats., communications between legal counsel for the Town and any officer, agent or employee of the Town, when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agent or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.

(8) Pursuant to Sec. 19.85(l)(h), Wis. Stats., requests for confidential written advice from an ethics board and records of advice given by such ethics board on such requests.

(c) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Town Attorney prior to releasing any such record and shall follow the guidance of the Town Attorney when separating out the exempt material. If, in the judgment of the custodian and the Town Attorney, there is no

feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

Sec. 3-3-7 Destruction of Records.

(a) Town officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Chapter 442 of the Wisconsin Statutes but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:

(1) Bank statements, deposit books, slips and stubs.
(2) Bonds and coupons after maturity.
(3) Canceled checks, duplicates and check stubs.
(4) License and permit applications, stubs and duplicates.
(5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
(6) Receipt forms.
(7) Special assessment records.
(8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(b) Town officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years.

(1) Contracts and papers relating thereto;
(2) Excavation permits;
(3) Inspection records.

(c) Town officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.

(1) Contracts and papers relating thereto.
(2) Correspondence and communications.
(3) Financial reports other than annual financial reports.
(4) Justice dockets.
(5) Oaths of office.

(6) Reports of boards, commissions, committees and officials duplicated in the Town Board proceedings.
(7) Election notices and proofs of publication.
(8) Canceled voter registration cards.
(9) Official bonds.
(10) Police records other than investigative records.
(11) Resolutions and petitions.

(d) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.

Sec. 3-3-8 Preservation.

Any Town officer, or the director of any department or division of Town government may, subject to the approval of the Town Board, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and applicable Town ordinances.

Sec. 3-3-9 Taped Records of Meetings.

The Town Board, any office, any special office, committee, any commission, any agency, any authority, any board or any other special government units of the Town of Big Bend and their officers, their employees and their agents of the aforesaid may destroy any taped or digitally recorded records of any public meeting of the aforesaid no sooner than ninety (90) days after the public meeting minutes have been approved by the appropriate government unit if the purpose of the tape recording was to make and maintain minutes of the public meeting.

Sec. 3-3-10 Confidentiality of Certain Assessor's Records.

(a) **Adoption.** This Section adopts by reference Sec. 70.47(7)(af), Wis. Stats. Income and expense information provided by a property owner to an assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under Sec. 19.35, Wis. Stats.

(b) Exceptions. Pursuant to Sec. 70.47(7)(af), Wis. Stats, the Town shall provide exceptions to said confidentiality to persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The following are examples where the exception may apply:
(1) The Assessor, who shall maintain confidentiality unless disclosure is required by law;
(2) The Board of Review may review such information when needed, in its opinion, to decide upon a contested assessment;

(3) The person is complying with a court order;

(4) The person providing the income and expense information has contested the assessment level at either the board of review or by filing a claim for excessive assessment under Sec. 74.37, Wis. Stats., in which case the base records are open and public.

Title 3 ► Chapter 4

Public Building Use

3-4-1 Authority
3-4-2 Public Building Access and Use

Sec. 3-4-1 Authority.

The Town Board has the specific authority, powers and duties pursuant to Sections 60.10, 60.22, Wis. Stats., and specific statutory authority, powers and duties with authorization of the Town meeting, to purchase, lease, construct and dispose of buildings and property for the Town of Big Bend and to manage and direct certain affairs related to Town buildings and lands.

Sec. 3-4-2 Public Building Access and Use.

(a) **Authority for Public Access.** The Town Board has the authority to establish dates and times for public access to the public buildings and public lands owned or leased by the Town. In addition, the Town Board has the authority to place additional restrictions on the use of the public buildings and public lands owned or leased by the Town.

(b) **Town Hall.**

(1) The Town Hall of the Town of Big Bend shall be open to the public as posted unless written notice to the contrary is posted at the usual and customary locations in the Town.

(2) The Town Hall may be open to the public at other times with the approval of the Town Board. The use of the Town Hall may be provided for non-governmental functions and events. The Town Board may charge a daily rental fee for such use to the responsible party. In addition to the rental fee, the Town Board may require that the responsible party provide a written indemnification and/or a policy of insurance to indemnify and hold harmless the Town of Big Bend from any costs, damages or expenses the Town may incur as a result of any injury to any person at or near the Town Hall.

(3) Town Hall users shall be required to pay to the Town a security deposit in an amount determined by resolution of the Town Board, or its designee. Such security deposit may be refunded, in all or part, upon a finding that the premises were left in a satisfactory condition.

(c) **Litter and Discharge.**

(1) The Town Board does not permit the disposal or discharge of any litter, solid waste,

hazardous waste, garbage or any other refuse in any Town public building and on the premises of any Town building except in disposal containers authorized by the Town.

(2) No person shall dispose or discharge the above noted waste in violation of this provision. Any person violating this provision shall immediately and totally reclaim and remove the disposed or discharged waste from the Town public building.

(d) **Smoking Prohibited in Building.** It shall be unlawful for any person to use any tobacco product in the Town Hall, or to use any other material that can be smoked in the Town of Big Bend Town Hall. The Town also adopts by reference 101.123, Wis. Stats.

(e) **Alcohol Beverages Prohibited.** It shall be unlawful for any person to possess or consume any alcohol as defined by 125.02, Wis. Stat., in the Town of Big Bend Town Hall or on the Town Hall grounds.

Title 4

Administrative Determinations Review

Chapter 1 Review of Administrative Determinations

Title 4 ► Chapter 1

Review of Administrative Determinations

Sec. 4-1-1 Review of Administrative Determinations.

Any person aggrieved by an administrative determination of the Town Board or a board, commission, committee, agency, officer or employee of the Town of Big Bend or agent acting on its behalf may have such determination reviewed as provided under State law. The remedies under this Chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

State Law Reference: *Chapter* 68, Wis. Stats.

Title 5

Public Safety

Chapter 1 Fire and Ambulance Protection
Chapter 2 Fire Prevention and Safety Codes

Title 5 ► Chapter 1

Fire Protection

5-1-1 Fire Protection; Fire Department
5-1-2 Ambulance Service
5-1-3 Fire Protection Charges

Sec. 5-1-1 Fire Protection; Fire Department.

(a) General Authority.

(1) The Town Board shall provide for fire protection for the Town of Big Bend. Fire protection for the Town, or any portion of the Town, may be provided in any manner, including:

a. Establishing a Town fire department.

b. Joining with another town, village, or city to establish a joint fire department. If the Town Board establishes a joint fire department with a village under Sec. 61.65(2(1)3, Wis. Stats., the Town Board shall create a joint board of fire commissioners with the village under Sec. 61.65(2)(b)2, Wis. Stats.

c. Contracting with any person.

d. Utilizing a fire company organized under Ch. 213, Wis. Stats.

(2) The Town Board may provide for the equipping, staffing, housing, and maintenance of fire protection services.

(b) **Funding.** The Town Board may:

(1) Appropriate money to pay for fire protection in the Town.

(2) Charge property owners a fee for the cost of fire calls made to their property.

(3) Levy taxes on the entire Town to pay for fire protection.

(4) Levy taxes on property served by a particular source of fire protection, to support the source of protection.

(5) Negotiate contracts with other local governments and nations, to be adjusted annually.

(6) The Fire Department may also raise monies independently.

(c) **Appropriations.** The Town Board shall appropriate funds for Fire Department operations

and for such apparatus and equipment for the use of the Fire Department(s) as the Board may deem expedient and necessary to maintain efficiency and properly protect life and property from fire.

State Law Reference: Sec. 60.55, Wis. Stats.

Sec. 5-1-2 Ambulance Service.

The Town Board shall contract for or operate and maintain ambulance services unless such services are provided by another person. The Town Board may purchase equipment for medical and other emergency calls. The Town may offer financial support to the local rescue service on an annual basis.

State Law Reference: Sec. 60.565, Wis. Stats.

Sec. 5-1-3 Fire Protection Charges.

(a) **State Authority.** Pursuant to Secs. 60.55, 60.555, and 60.557, Wis. Stats., the Town of Big Bend hereby establishes a policy and procedure for payment of fire costs incurred by the Town of Big Bend as set forth in the Town Fee Schedule.

(b) **Liability for Fire Protection Costs.** Each owner of real estate located within the Town of Big Bend is provided with fire protection by the Town of Big Bend through its contracted fire department. However, in the event that extra equipment, such as a backhoe, ambulance standby service or any other cost to be incurred beyond "normal or customary fire department procedure" must be called in at the discretion of the Fire Department Chief or other person in charge, the owner of the real estate is responsible for the actual costs of the extra equipment or supplementary essentials which is necessary.

(c) **Liability for Fire Calls When Fire Departments Other Than Authorized Fire Departments.** Any owner of real estate located within the Town of Big Bend who shall request fire protection for such property directly from any fire department other than the Town of Big Bend's designated Fire Department(s), or from any other contractor, shall be responsible for the full costs billed to the Town for the fire call from such fire department. This Section shall not apply to the costs of any other fire department responding to the request of a Fire Department under a mutual aid agreement.

(d) **Invoice and Payment Procedure; Special Charge and Lien.** Costs of fire calls chargeable under this Section shall first be submitted to the property owner's insurance carrier for possible payment. In the event the insurance carrier denies payment, the costs of fire calls chargeable under this Section shall be invoiced by the Town Clerk-Treasurer to the property owner(s) and shall be paid to the Town Clerk-Treasurer within ninety (90) days of the date of the bill. Invoices which are unpaid ninety (90) days after their dates which are outstanding for more than ninety (90) days and are unpaid as of November 1, of any year, shall become a lien against the real estate for which fire protection was provided and this amount, including interest, shall be placed on the tax role as a delinquent special charge against such real estate pursuant to Sec. 66.0627, Wis. Stats.

Title 5 ► Chapter 2

Fire Prevention and Safety Codes

5-2-1 Intent of Code
5-2-2 Adoption of State Codes
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Sec. 5-2-1 Intent of Code.

It is the intent of this Chapter to prescribe regulations consistent with recognized standard practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises.

Sec. 5-2-2 Adoption of State Codes.

(a) The following orders, rules, and regulations of the Wisconsin Department of Commerce (formerly the Department of Industry, Labor and Human Relations), all of which are set forth in the Wisconsin Administrative Code as from time to time amended, are incorporated herein by reference and adopted as part of this Fire Prevention Chapter:

(1) Ch. SPS 307, Explosives and Fireworks

(2) Ch. SPS 310, Flammable, Combustible and Hazardous Liquids

(3) Ch. SPS 314, Fire Prevention

(4) Ch. SPS 316, Electrical

(5) Chs. SPS 320 to 325, Uniform Dwelling Code

(6) Ch. SPS 328, Smoke Detectors and Carbon Monoxide Detectors

(7) Ch. SPS 330, Fire Department Safety and Health

(8) Ch. SPS 343, Anhydrous Ammonia

(9) Chs. SPS 361 to 366, Wisconsin Commercial Building Code

(10) Chs. SPS 375 to 379, Buildings Constructed Prior to 1914

(11) Wisconsin Electrical Code

(b) The following codes of the National Fire Protection Association (NFPA) are hereby adopted by reference and made a part of the Town of Big Bend Fire Prevention Code:

(1) Volume IV — Extinguishing Equipment.

(c) Whenever the provisions of the aforementioned codes conflict, the stricter interpretation shall apply.

Sec. 5-2-3 Application to New and Existing Conditions.

The provisions of this Chapter shall apply equally to new and existing conditions except that existing conditions not in strict compliance with the terms of this Chapter shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property.

Sec. 5-2-4 Orders to Eliminate Fire Hazards.

Whenever any of the officers, members, or inspectors of the Fire Department shall find any building or upon any premises dangerous or hazardous conditions as follows, he or they shall order such dangerous conditions or materials to be removed or remedied in such manner as may be specified in said order:

(a) Dangerous or unlawful amounts of combustible or explosive matter.

(b) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive matter.

(c) Dangerous accumulations of rubbish, wastepaper, boxes, shavings, or other highly flammable materials.

(d) Accumulations of dust or waste material in air conditioning systems or of grease in kitchen exhaust ducts.

(e) Obstructions to or on fire escapes, stairs, passageways, door, or windows liable to interfere with the operation of the Fire Department or egress of occupants in case of fire.

(f) Any building or other structure which, for want of repairs, lack of sufficient fire escapes or other exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a fire hazard or a threat to life and safety.

Sec. 5-2-5 Service of Orders.

(a) The service of such orders as mentioned in Section 5-2-4 may be made upon the owner, occupant, or other person responsible for the conditions, either by delivering a copy of the same personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a copy of the said order or, if the owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last-known post office address.

(b) If buildings or other premises are owned by one (1) person and occupied by another under lease or otherwise, the orders issued in connection with the enforcing of the Chapter shall apply to the occupant thereof, except where the rules or orders require the making of such additions to or changes in the premises themselves, such as would immediately become real estate and be the property of the owner of the premises; in such cases the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.

Sec. 5-2-6 Investigation of Fires.

(a) The Fire Department serving the Town of Big Bend shall investigate the cause, origin, and circumstances of every fire occurring in the Town which is of suspicious nature or which involves loss of life or injury to persons or by which property has been destroyed o r substantially damaged. Such investigations shall be begun immediately upon the occurrence of such a fire by the fire officer in whose district the fire occurs, and if it appears that such fire is of suspicious origin, the Chief of the Fire Department shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

(b) Appropriate law enforcement agencies, upon request of the Chief of the Fire Department, may assist in the investigation of any fire which, in the opinion of the Chief of the Fire Department, is of suspicious origin.

Sec. 5-2-7 Burning Permits

Wisconsin Department of Natural Resources burning permits are required in the Town of Big Bend for burning on the ground and in barrels when the ground is not completely snow covered.

Sec. 5-2-8 Banning and/or Regulating the Use of Fire, Burning Materials, and Fireworks During Existence of Extreme Fire Danger.

(a) **Declarations of Emergency.** When there occurs a lack of precipitation, there may exist an extreme danger of fire within the Town of Big Bend. This extreme danger of fire affects the health, safety, and general welfare of the residents of the Town of Big Bend and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the Town during said emergency.

(b) **Regulation of Fires, Burning Materials, and Fireworks.** When a burning state of emergency is declared, it may be ordered that a person may not:

(1) Set, build, or maintain any open fire, except:

a. Charcoal grills using charcoal briquets, gas grills, or camp stoves on private property; or

b. Charcoal grills using charcoal briquets, gas grills, or camp stoves in Town parks placed at least twenty (20) feet away from any combustible vegetation.

(2) Throw, discard, or drop matches, cigarettes, cigars, ashes, charcoal briquets or other burning materials while outdoors except into a noncombustible container that does not contain combustible materials.

(3) Light or ignite a flare, except upon a roadway in an emergency.

(4) Light, ignite, or use anything manufactured, processed, or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the Town where adequate fire prevention measures have been taken.

(b) **Period of Emergency.** Burning emergencies shall become effective upon the time and date of the Town Chairperson or Rusk County Board declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification, or repeal of the burning state of emergency by the Town Board, or when applicable, the Rusk County Board.

Title 6

Public Works

Chapter 1	**Public Works**
Chapter 2	**Laying Out and Construction of Town Highways and Roads**
Chapter 3	**Road Excavations; Trees**
Chapter 4	**Driveways; Culverts**

Public Works

6-1-1 Statutory Public Works Authority
6-1-2 Payment for Public Works; Special Assessments
6-1-3 Burning or Deposit of Rubbish on Highway Right-of-Ways Prohibited

Sec. 6-1-1 Statutory Public Work Authority.

Without limitation because of enumeration, the Town Board may:

(a) **Acquire Lands.** Notwithstanding Sec. 60.10(2)(e), Wis. Stats., acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the Town of Big Bend.

(b) **Streets, Sewers and Water Mains.** Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main or any other service pipes, under 62.16 (2) (d), Wis. Stat., in the Town.

(c) **Lake Improvement.** Provide for making improvements in any lake or waterway located in the Town.

State Law Reference: Sec. 60.50, Wis. Stats.

Sec. 6-1-2 Payment for Public Works; Special Assessments.

The Big Bend Town Board may levy and collect special assessments and charges under Sec. 66.0701, or 66.0703 or 66.0627, Wis. Stats., and Title 3, Chapter 2, of this Code to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under Sec. 66.0713, Wis. Stats.

State Law Reference: Secs. 60.51, 66.0701, 66.0703 and 66.0713, Wis. Stats.

Sec. 6-1-3 Burning or Deposit of Rubbish on Highway Right-of-Ways Prohibited.

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town of Big Bend, Rusk County, State of Wisconsin, or to burn any material of any nature in or on the right-of-way of any such highway or road, and particularly the impervious surface thereof, in the Town of Big Bend, except as specifically authorized by the Town Board.

Title 6 ► Chapter 2

Laying Out and Construction of Town Highways and Roads

Sec. 6-2-1 Application to Lay Out and Construct Highway

An application to lay out and construct a new Town highway, other than as part of to a new subdivision or plat, shall use the procedures in Chapter 82, Wis. Stat., as amended.

Title 6 ► Chapter 3

Road Excavations; Trees

6-3-1 Excavations of Streets, Alleys, Public Ways and Roads
6-3-2 Regulations Governing Excavations and Openings
6-3-3 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs; Tree Removal; Fences
6-3-4 Injury to Trees and Shrubs Prohibited
6-3-5 Deposit of Rubbish and Stones on Highway Right-of-Way Prohibited
6-3-6 Placement of Rural Mailboxes

Sec. 6-3-1 Excavations of Streets,Alleys,PublicWays and Roads.

(a) Permit Required.

(1) No person, partnership, utility or corporation, or their agents or employees or contractors shall make or cause to be made any opening, excavation or boring in or under any public street, public road, public bridge, public alley, public way, public ground, public sidewalk or Town-owned easement or fill or alter any culvert or construct or install additions or extensions to its existing facilities within the Town of Big Bend without a permit therefor from the Town Chairperson or Clerk-Treasurer, or their designee. *State Law Reference:* Sec. 86.07, Wis. Stats.

(2) The utility or contractor shall submit to the Town a written request for a utility construction/street excavation permit and a plan of the proposed alteration, boring, extension or addition, showing its location and details of construction, including specified depth, method of excavation, open out or auguring, provisions of restoration and whatever the Town would deem necessary for review and consideration. In being issued a permit the utility or contractor agrees to be bound by the regulations of this Section and Section 6-3-2.

(b) Fee. The fee for an excavation or opening permit shall be in accordance with the Town Board's current fee schedule. The fee shall be paid to the Town Clerk-Treasurer, who shall issue a receipt therefor.

(c) Insurance Required. A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than One Million Dollars ($1,000,000.00) per one (1) person, One Million Dollars ($1,000,000.00) for one (1) accident and property damage coverage of not less than One Million Dollars ($1,000,000.00).

(d) Bond.

(1) Before a permit for excavating, boring or opening any street or public way may be issued, the applicant must sign a statement in that he/she will indemnify and save harmless the Town of Big Bend and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Town Board for a period of one (1) year, and that he/she will pay all fines imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Town Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Town. Such statement shall also guarantee that if the Town shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year.

(2) Whenever the Town Board shall find that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor stating the defect, the work to be done, the cost thereof and the period of time deemed by the Town Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the Town for the cost of doing the work as set forth in the notice.

Sec. 6-3-2 Regulations GoverningExcavations and Openings.

(a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town Chairperson or Town Clerk-Treasurer, or their designee.

(b) **Removal of Paving.** In any opening or excavation, all paving materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.

(c) **Protection of Public.**

(1) Every opening and excavation shall be enclosed with sufficient barriers and sufficient warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet where pipe or conduit has been laid.

(2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

(d) **Replacing Street Surface.** In opening any public street, public bridge, public alley, public sidewalk, public way, public easement or public ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which, in the opinion of the Town, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be laid in layers not more than six (6) inches in depth and each layer mechanically rammed or tamped to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. Trenches shall be compacted to ninety-five percent (95%) Modified Procter, with test results from a certified soil tester filed with the Town. The Town may elect to have the opening for any street or sidewalk repaired by the Town, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.

(e) **Notice.** It shall be the duty of the permittee to notify the Town Chairperson and/or Town Clerk-Treasurer, or the Town Engineer when requested by the Town, and all private individuals, firms and corporations affected by the work to be done at least twenty-four (24) hours before such work is to commence. The Clerk-Treasurer and/or Chairperson, or the Town Engineer when requested by the Town, shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(f) **Validity of Permit.** Unless the work shall be commenced within thirty (30) days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.

(g) **Backfilling.** Reconstruction shall be in accordance with the current cross-section or according to Town Standards, whichever is stricter. If the surface is not restored as required, the Town may restore the surface and bill the permittee therefor; the Town shall perform such work and bill the cost thereof to the permittee.

(h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation, owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/her agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.

(i) **Excavation in New Streets Limited.** Whenever the Town Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately

after such determination by the Town Board, the Town shall notify in writing each person, utility, Town department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within ninety (90) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Town Board, an emergency exists which makes it absolutely essential that the permit be issued.

(j) **Exception.** The provisions of this Section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town except that the safety precautions under Subsection (c) hereof shall be complied with.

Sec. 6-3-3 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs; Tree Removal; Fences.

(a) **Obstruction of Intersections.**

(1) *Purpose*. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more roads, streets or alleys in the Town of Big Bend any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

(2) *Visual Clearance at Intersections.* In each quadrant of every road intersection, there shall be designated a visual clearance triangle bounded by the road centerline and a line connecting them three hundred (300) feet from all state and U.S. numbered highway intersections, two hundred fifty (250) feet from county trunk highway intersections and two hundred (200) feet from a Town road intersection. If two highways of a different class intersect, the largest distance shall apply to both centerlines. Within this triangle, no object over two and one-half (2-1/2) feet in height above the roads shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten (10) feet and located a minimum of thirty (30) feet apart.

(b) **Setback Requirements on Town Roads.** The setback for Town roads (highways) are set by Rusk County Zoning.

(c) **Obstruction of Signs.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, brush, shrubbery or vegetation to remove such obstruction.

(d) **Abatement Procedure.** Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel, and the Town Clerk-Treasurer shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner pursuant to Sec. 66.0627, Wis. Stats.

(e) **Trees on and Adjacent to Highway.** Any person owning or occupying land adjoining any highway may, with the approval of the Town Board, plant, cultivate and maintain trees, shrubs

or hedges on the side of the highway continuous to and within ten (10) feet of his/her land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.

(f) **Cutting or Injuring Trees on Highway.** No person shall cut down, break, girdle, bruise the bark or in any other manner injure any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility. When it is necessary for trees in a road right-of-way to be removed, the adjacent property owner shall have a right of first refusal to have the wood.

(g) **Fences.** No person shall build or reconstruct any fence within the public road right-of-way.

State Law Reference: Sec. 86.03, Wis. Stats.

Sec. 6-3-4 Injury to Trees and Shrubs Prohibited.

It shall be unlawful for any person to injure, mutilate, cut down, or destroy any shade tree growing on or within any street or highway in any village in this state, unless express permission to do so has been granted by the village's board of trustees.

State Law Reference: Sec. 86.03, Wis. Stats.

Sec. 6-3-5 Deposit of Rubbish and Stones on Highway Right-of-Way.

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, machinery, garbage or other waste or rubbish in or on the right-of-way, including any roadside ditch, of any highway located in the Town of Big Bend, without written permission of the Town Board for temporary use.

Sec. 6-3-6 Placement of Rural Mailboxes.

Rural mailboxes are prohibited on the right-of-way of all highways within the Town of Big Bend except as hereinafter provided:

(a) Mailboxes are approved only if they are of a construction or design approved by the United States Postal Service or previously approved by the Postmaster.

(b) Newspaper tubes are permitted only if provided by the newspaper and are of a construction or design that will not present a hazard to the public use of the right-of-way.

(c) Maintenance and repair of mailboxes are the responsibility of the owner.

(d) The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation and shall not constitute a hazard to the public use of the right-of-way.

(e) Mailbox and newspaper tubes must be located on the side of the road as required by the United States Postal Service.

(f) The owner of each mailbox and/or newspaper tube shall, within twenty-four (24) hours

after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of fifteen (15) feet to each side of said mailbox and/or newspaper tube.

(g) No other object of any kind shall be attached to the mailbox, newspaper tube or their supports. No other objects, including, but not limited to, landscaping boulders or fences may be placed on the right-of-way.

(h) This Section is not intended to and shall not be construed to create any affirmative duty on the part of the Town of Big Bend to locate and remove obstructing mailboxes.

Title 6 ► Chapter 4

Driveways; Culverts

6-4-1 Culvert Requirements
6-4-2 Driveway and Culvert Location, Design and Construction Requirements

Sec. 6-4-1 Culvert Requirements.

No person shall construct any driveway or private road in a public right-of-way of the Town of Big Bend without installing a culvert in full compliance with this Section. Included within the scope of this requirement are commercial driveways.

Sec. 6-4-2 Driveway and Culvert Location, Design and Construction Requirements.

(a) **Approval; Inspection.**

(1) All new driveways proposed to be installed or any field access serving open land without improvements and proposed to be converted to a driveway to serve one or more structures shall be subject to inspection by any Town officer prior to the start of any permit. An approved driveway shall be in place before a building permit can be issued.

(2) The applicant, who may be the owner, agent, or contractor shall submit a location construction plan showing specifications including grade, slope, width, and length of the driveway and erosion control procedures.

(3) Authorization for a driveway permit is subject to the approval of the Town Board and when so approved, the Town Board shall notify the Rusk County Zoning Office. If there is a dispute on the adequacy of an alleged existing driveway the decision of the Town Board shall be the deciding factor.

(b) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:

(1) *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 street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street in accordance with Wisconsin Department of Transportation standards and shall be subject to inspection by any town officer prior to construction. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

(2) *Island Area.* The island area in the street 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 (b)(4).

(3) *Driveway Standards.*

a. The following specifications shall apply:

1. Minimum road surface width: Twelve (12) feet.
2. Minimum height clearance: Eighteen (18) feet.
3. Maximum grade: Ten (10) vertical feet every One Hundred (100) horizontal feet.
4. Minimum of six (6) inches of base shall cover the driveway approach.
5. Driveways shall be maintained sufficiently to provide adequate access to buildings for emergency vehicles.
6. Any approach through the Town right of way shall be a minimum of 24 feet in width. In excess of 24 feet shall require a variance.

b. The sides of the apron, at least to the culvert, should be beveled down to grade so as to have no abrupt surface that could damage a snow plow or create a hazard to any vehicle that should travel off the pavement.

c. No barricade, fence or guard that extends higher than the roadbed may be constructed in the area from the pavement to the center of the culvert.

(4) *Restricted Areas.* The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:

a. The filling or draining shall be to grades approved by the Town Board and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.

b. 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 three hundred (300) feet and/or where a bend or curve in the pipe is required.

c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street 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.

(5) *Relocation of Utilities.* Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.

(6) *Slope; Base.* The driveway within the area of the public right-of-way shall slope away from the public road in a manner sufficient to prevent drainage or erosion onto the public road and to allow adequate stopping distance for a vehicle approaching the road. An adequate road bed base of suitable material to support the project traffic and any requirements for culverts shall be determined by the Town in considering an application for driveway approval.

(7) *Variances.* Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

(c) **Prohibited Driveways and/or Filling.**

(1) 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 public road, highway or street in the Town of Big Bend except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.

(2) No driveway shall be closer than twenty-five (25) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.

(3) The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

(4) Drainage from driveways shall run into adjacent ditches and not onto the road pavement.

(5) Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.

(6) The placement of lawn sprinkler pipes in a road right-of-way is prohibited.

(d) **Culvert Construction Standards.**

(1) *Size.* All driveways, whether temporary or permanent, are required to have culverts as determined by Town Board. This includes but is not limited to temporary roads, i.e. construction sites, logging trails, etc. Culverts shall be installed prior to construction work being commenced on the property served. Culvert shall be of galvanized, plastic or corrugated material and must meet AASHTO M 294, Type S specification.

(2) *Drainage.* The culverts shall be placed in the ditch line at elevations that will assure proper drainage.

(3) *Backfill Material.* Material used for backfill shall be of a quality acceptable to the Town Board 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.

(4) *Erosion Control.* Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Town Board.

(5) *Cost.* The property owner shall install the culvert and be responsible for the cost thereof. Illegal culverts shall be removed at the banner's expense.

(6) *Appeal.* Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Town Clerk-Treasurer, who shall place the matter as an agenda item for the Town Board's next meeting. The Town Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary.

(e) **Definitions.**

(1) *Driveway/Access.* Any area where travel occurs from a public road over land (whether by easement or ownership) not considered to be a part of the public road for the purpose of gaining access to land or improvements.

(f) **Maintenance and/or Repair.** Maintenance of driveway and/or repair of defective culverts shall be the responsibility of the property owner.

(g) **Enforcement.** All costs incurred by the Town relating to the enforcement of this Chapter or in making the determinations or inspections necessary hereunder shall be paid by the property owner, including, but not limited to, Town administrative costs and engineers' and attorneys' fees. If a property owner refuses to comply with the Chapter, the Town may install the culverts and charge back the cost or additional cost thereof as a special charge pursuant to Sec. 66.0627, Wis. Stats.

Title 7

Licensing and Regulation

Chapter 1	**Licensing of Dogs and Regulation of Animals**
Chapter 2	**Fermented Malt Beverages and Intoxicating Liquor**
Chapter 3	**Cigarette License**
Chapter 4	**Regulation of Large Assemblies of Persons**
Chapter 5	**Use of Explosives; Blasting Activities**
Chapter 6	**Regulation and Licensing of Fireworks**
Chapter 7	**Mobile Home Parks and Campgrounds**
Chapter 8	**Coin-Operated Machines**
Chapter 9	**Licensees to Pay Local Claims; Appellate Procedures**

Title 7 ► Chapter 1

Licensing of Dogs and Regulation of Animals

7-1-1 Dog Licenses Required; Definitions
7-1-2 Issuance of Dog and Kennel Licenses
7-1-3 Rabies Quarantine
7-1-4 Restrictions on Keeping of Dogs, Cats, Fowl and other Animals
7-1-5 Duty of Owner in Case of Dog or Cat Bite
7-1-6 Injury to Property by Animals
7-1-7 Barking Dogs or Crying Cats

Sec. 7-1-1 Dog License Required; Definitions.

(a) **License Required.** It shall be unlawful for any person in the Town of Big Bend to own, harbor or keep any dog more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

(1) ***Owner.*** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.

(2) ***At Large.*** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

(3) ***Dog***. Any canine, regardless of age or sex.

(4) ***Neutered.*** A dog or cat having nonfunctional reproductive organs.

(5) ***Animal.*** Mammals, reptiles and birds.

(6) ***Cruel.*** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(7) ***Law Enforcement Officer.*** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Chapter 173 and Sec. 951.01(3e), Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.

(8) ***Farm Animal.*** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

(9) ***Pet.*** An animal kept and treated as a pet.

State Law Reference: Secs. 174.05 through 174.10, Wis. Stats.

Sec. 7-1-2 Issuance of Dog and Multiple Dog Licenses.

(a) **Dog Licenses.**

(1) It shall be unlawful for any person in the Town of Big Bend to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec.174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.

(3) The minimum license tax under this Section shall be in accordance with the Town Board's current fee schedule.

(4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-3 of this Chapter, the Town Clerk-Treasurer or his/her deputy shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Clerk-Treasurer or his/her deputy shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Sec. 174.042(1)(b).

(6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any Town law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached. Each day that any dog within the Town of Big Bend continues to be unlicensed constitutes a separate offense for which a separate penalty applies.

(7) Notwithstanding the foregoing, every dog specifically trained to lead blind, or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Clerk-Treasurer or his/her deputy upon application therefor.

(b) **Multiple Dog Licenses.**

(1) Multiple dog licenses may be issued pursuant to Sec. 174.053, Wis. Stats.

State Law Reference: Sec. 174.053, Wis. Stats.

Sec. 7-1-3 Rabies Quarantine.

(a) **Dogs and Cats Confined.** If a district or neighborhood is quarantined for rabies, all dogs and cats within the Town shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Town Clerk-Treasurer shall promptly post in at least three (3) public

places in the Town notices of quarantine.

(b) **Exemption of Vaccinated Dog or Cat from Town Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Town quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) ***Quarantine or sacrifice of dog or cat.*** A law enforcement, humane or animal control officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) ***Sacrifice of other animals.*** A law enforcement, humane or animal control officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Quarantine of Dog or Cat.**

(1) ***Delivery to isolation facility or quarantine on premises of owner.*** A law enforcement, humane or animal control officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2) ***Health risk to humans.*** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) ***Risk to animal health.***

a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner

shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) ***Sacrifice of a dog or cat exhibiting symptoms of rabies.*** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Town, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Town, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination.

Sec. 7-1-4 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals.

(a) **Restrictions.** It shall be unlawful for any person within the Town of Big Bend to own, harbor or keep any dog, cat, fowl or other animal which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the Town.

(2) Assaults or attacks any person or destroys property.

(3) Is at large within the limits of the Town.

(4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7- 1-7)

(5) Kills, wounds or worries any domestic animal.

(6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(7) In the case of a dog, is unlicensed.

(b) **Vicious Dogs and Animals.**

(1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the law enforcement authorities.

(2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) **Animals Running at Large.**

(1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his/her animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large may be seized and impounded by a humane or law enforcement officer, or a Town Board member.

(2) A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

(d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

Sec. 7-1-5 Duty of Owner in Case of Dog or Cat Bite.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to a law enforcement, humane or animal control officer and shall keep such dog or cat confined for not less than fourteen (14) days or for such period of time as a law enforcement, humane or animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

Sec. 7-1-6 Injury to Property by Animals.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

Sec. 7-1-7 Barking Dogs or Crying Cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually

barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Town or a law enforcement agency within a six (6) week period.

Title 7 ► Chapter 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

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Article B Operator's License

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Article C Penalties

7-2-40 Penalties

Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Ch. 125, Wis. Stats.

Sec. 7-2-2 Definitions.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age," "Premises," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wisconsin Statutes.

Sec. 7-2-3 License Required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto.

Sec. 7-2-4 Classes of Licenses.

(a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the Town Clerk-Treasurer under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

(b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Town Clerk-Treasurer under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(c) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Town on December 1, 1997, and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorized the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorized the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailers fermented malt beverage license, when issued by the Town Clerk-Treasurer under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(e) **Class "B" Fermented Malt Beverage Retailer's License.**

(1) ***License.*** A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk-Treasurer under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percent of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(2) ***Application.*** Class "B" licenses may be issued to any person qualified under Sec. 125.04, Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

(f) **Temporary Class "B" Fermented Malt Beverage License.**

(1) ***License.*** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Town Board.

(2) ***Application***. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars ($200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility,

(g) **Temporary "Class B" Wine License.**

(1) ***License***. Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats. for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.

(2) ***Application***. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars ($200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

(h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Town Clerk-Treasurer under authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

(i) **Retail "Class C" Licenses.**

(1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

(2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3) A "Class C" license may be issued to a person qualified under Sec. 125.04, Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

(4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the Town Clerk-Treasurer under the authority of the Town Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.:

(a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(b) **Class "B" Fermented Malt Beverage License.**

(1) The annual fee for this license shall be in accordance with the Town Board's current fee schedule. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(2) A Class "B" fermented malt beverages license may also be issued to bona fide clubs, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering and at a meeting of the post. The fee for the license shall be as prescribed by the Town's Fee Schedule.

(c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule.

(d) **Temporary "Class B" Wine License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.

(e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall

be in accordance with the Town Board's current fee schedule.

(f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule.

(g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule for regular and Reserve "Class B" licenses. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.

Sec. 7-2-6 Application for License.

(a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant, and shall be filed with the Town Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

(b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, or by the president and secretary, of a corporation.

(c) **Publication.** The Town Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A" or "Class B" or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.

(d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.

(e) **License Quotas.** Retail intoxicating liquor licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

Sec. 7-2-7 Qualifications of Applicants and Premises.

(a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A", "Class B" or "Class B" Reserve intoxicating liquor license shall be granted only to persons, or their agents, who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.

(b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

(c) **Right to Premises.** No applicant will be considered unless he/she has the right to

possession of the premises described in the application for the license period, by lease or by ownership.

(d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age, except for operator's licenses as provided by Sec. 125.04(5)(d)2, Wis. Stats.

(e) **Corporate Restrictions.**

(1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(5)(c), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(5)(c) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(5)(a). The requirement that the corporation meet the qualifications under Sec. 125.04(5)(c) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

(2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk-Treasurer a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.

(3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.

(f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.

(g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

(h) **Residential Areas.** No "Class B" fermented malt beverage license may be issued for any premises where forty percent (40%) or more of the property fronting on both sides of the same street in the same block whereon the premises is located is used for residence purposes if a written objection is filed with the Town Clerk-Treasurer signed by owners of more than eighty percent (80%) of such residence property.

(i) **Off-Street Parking Facilities.** No "Class B" intoxicating liquor license shall be issued for any premises unless said premises provides off-street parking stalls equal in number to fifty percent (50%) of the number of patrons which said premises may lawfully accommodate. This restriction shall not apply in the case of renewal licenses issued for premises licensed as of the date of the enactment of this Subsection.

(j) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already

covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

(k) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(1) A hotel.
(2) A restaurant whether or not it is a part of or located in any mercantile establishment.
(3) A combination grocery store and tavern.
(4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
(5) A combination novelty store and tavern.
(6) A bowling alley or recreation premises.
(7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Town Clerk-Treasurer shall notify the Sheriff's Department and Fire Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Town Clerk- Treasurer in writing, who shall forward to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

Sec. 7-2-9 Approval of Application.

(a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.

(b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Town.

(c) Consideration for the granting or denial of a license will be based on:

(1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;

(2) The financial responsibility of the applicant;
(3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
(4) Generally, the applicant's fitness for the trust to be reposed.

(d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-10 Granting or Denial of License.

(a) In the event the application is for a "Class A" or a "Class B" intoxicating liquor license at a site not previously licensed under this Chapter, the Town Clerk-Treasurer shall schedule public hearings before the Town Board on the granting of the licenses and shall notify all property owners situated in the block of the site for which the license is sought and all property owners within a radius of three hundred (300) feet of the proposed site of the dates of the hearings. The notice shall be given at least ten (10) days before the hearing and may be given by mail.

(b) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town. The full license fee shall be charged for the whole or fraction of any year.

(c) If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application may be held in closed session unless the applicant requests such reconsideration be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Town Board meeting at which the application is to be reconsidered.

Sec. 7-2-11 Transfer and Lapse of License.

(a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town

Board. An application for transfer shall be made on a form furnished by the Town Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is as stated in the town fee schedule. Whenever a license is transferred, the Town Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

(b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk-Treasurer written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Town Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

Sec. 7-2-12 Numbering of License.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Town Clerk-Treasurer shall affix to the license his/her affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

Sec. 7-2-13 Posting Licenses; Defacement.

(a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.

(b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

Sec. 7-2-14 Conditions of License.

All retail Class "A", Class "B", "Class A" and "Class B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Town applicable thereto.

(a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all

things and articles there had in violation of Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.

(c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B" or Class "B" or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B" or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.

(e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

(f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

(g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.

(h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.

(i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A" or "Class B" liquor or fermented malt beverage or "Class C" wine licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

(j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall

constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

(k) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live, act, demonstration, dance or exhibition on the licensed premises which:

(1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(3) Exposes any portion of the female breast at or below the areola thereof; or

(4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

Annotation: See *Colonnade Catering Corp.* v. *United States,* 397 U.S. 72, 90 S. Ct. *114* (1970); and *State v. Erickson,* 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

Sec. 7-2-15 Closing Hours.

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and further restricted as follows:

(a) **Class "B" Licenses.**

(1) No premises for which a retail "Class B" liquor or Class "B" fermented malt beverage license or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.

(2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

(b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

Sec. 7-2-16 Restrictions on Temporary Fermented Malt Beverage or Wine Licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Town-owned property or privately-owned property within the

Town of Big Bend, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Town Board in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Town-owned property or privately-owned property may be authorized by the Town Board provided the following requirements are met:

(a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

(b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage or wine shall be served to any under-age person without proper identification.

(c) **Fencing.** If necessary due to the physical characteristics of the site, the Town Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.

(d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.

(e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.

(f) **Waiver.** The Town Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.

(g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of Big Bend. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

Sec. 7-2-17 Revocation and Suspension of Licenses; Non-Renewal.

(a) **Procedure.**

(1) The Town of Big Bend shall follow the procedure outlined in Ch. 125.12, Wis.

Stats., when taking suspension/revocation action against any alcohol beverage license issued by the Town Board.

(2) If the action is initiated by a citizen or a board member, the Town Board may take immediate action and upon notice hold a hearing under Sec. 125.12, Wis. Stats.

(3) If the action is resulting from the arrest of a license holder, or agent thereof, and upon conviction in circuit court, the Town Board shall hold a hearing under Sec. 125.12, Wis. Stats.

(b) **Penalties.**

(1) All actions against a license holder being affirmed by the Town Board, or any conviction under Ch. 125, Wis. Stats., in Circuit Court against a license holder, shall be considered as a violation under this Section.

(2) The Town Board may, based on the severity of any offense, revoke a license pursuant to Sec. 125.12 regardless of the number of offenses.

(c) **Continuing Business License Requirements.**

(1) It shall be a condition of maintaining and keeping a license in the Town of Big Bend, that the licensee continue in business. Issuance of, or retention of, a license by a party not doing business or intending to resume doing business under conditions of this Chapter, as defined as follows, is declared to be against public policy.

(2) Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Big Bend Town Board by amendments or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such law restrictions and regulations, his/her license may be revoked in accordance with this Chapter. In the event of revocation of any license or any violations of any provisions of this Chapter, or by the court for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(3) "Business continuation" of a license is hereby defined to mean as follows: Should a license issued under this Chapter not be used within sixty (60) days after its issuance and/or adoption of this Chapter, or its usage is discontinued for a period of sixty (60) days or more, such situation may be grounds for cancellation of the license in accordance with the provisions of this Section. For a license to be considered used, the licensee must be open for business a minimum of 150 days in a license term, unless the license was issued for a term less than 180 days.

(4) Holders of such licenses are required to possess the following: A premise (facility) from which to conduct business, sanitary permit, building permits, Conditional Use Permits (CUPs) when required in accordance with the Rusk County Zoning and Shoreland Protection Ordinance, and meeting of any other requirements under the provisions of the Rusk County Ordinance. Further, holders of such licenses must possess necessary federal I.D. numbers, State of Wisconsin sales tax numbers, and shall meet and continue to meet on an ongoing basis all other state and federal requirements. Approval by the Town of Big Bend Town Board must also be obtained.

(5) Exceptions to these requirements to continue to possess a necessary license would be any act of God which may damage or destroy the facility for which the license has been issued to operate the business from. In such cases, the holder of the license will be allowed a maximum of two (2) years to repair damages or rebuild the damaged or destroyed facility and again resume operating the business from the

premises for which the license issued was intended. The holder of a license of a damaged or destroyed business shall also be required to meet with the Licensing Board (Town Board) at that Board's discretion to discuss the situation and progress. Again, the Licensing Board reserves the right to revoke such license if, in its opinion, progress toward repair or rebuilding is not progressing in a timely manner. In such cases, the holder of the license has the express right to request a hearing, and any other appeal avenues which may be available to the license holder.

(6) In the event any licensed party violates this Chapter, disciplinary action may be taken by the Town Board, including reprimand, suspension of the license for a specified number of days [maximum of ninety (90) days], or revocation of the license. Any license that has been revoked shall not be reinstated within the following six (6) months. Any disciplinary action taken shall follow notice to the licensee prior to a hearing. Both the hearing notice, which will specify the reason for the hearing, and the subsequent decision of the Board, will be sent by first class mail to the last known address of the licensee, or personally served, at the option of the Big Bend Town Chairperson.

(7) In the event disciplinary action is taken against a licensee, the state procedure mandated under present Sec. 125.12, Wis. Stats., or its successor, will be followed. At present, said procedure requires personal service of the hearing notice (summons and complaint), and a hearing within three to ten (3-10) days thereafter.

(8) As specified by law, there shall be no refund of any license fee paid to a party whose license is revoked.

(9) In lieu of a hearing, the Town Board may accept surrender of the license, and the Town Board shall then determine the time period before another application for the same type of license will be accepted from the former licensee.

(10) Evidence and testimony at the hearing shall be done in open session. The Board may go into closed session to deliberate with regard to its decision, where that possibility and option have been properly and legally listed on the hearing notice posted and/or published. The Town Clerk-Treasurer shall see that the hearing notice is posted and/or published pursuant to law.

Sec. 7-2-18 Nude Dancing in Licensed Establishments Prohibited.

(a) **Authority.**

(1) The Town Board of the Town of Big Bend has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and

(2) The Town Board has authority under its general police powers set forth in Sec. 62.11(5), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

(3) The Town Board recognizes it lacks authority to regulate obscenity in light of Sec. 944, Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and

(4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and

(5) The Town Board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and

(6) However, the Town Board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Town of Big Bend; and

(7) Among these secondary effects are:

a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;

b. The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;

c. Health risks associated with the spread of sexually transmitted diseases; and

d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and

(8) The Town Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Town of Big Bend; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

(9) The Town Board has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.

(b) **Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

(1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or

(2) Shows any portion of the female breast below a point immediately above the top of the areola; or

(3) Shows the covered male genitals in a discernably turgid state.

(c) **Exemptions.** The provisions of this Section do not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered

on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of nude erotic dancing.

(d) **Definitions.** For purposes of this Section, the term "licensed establishment" means any establishment licensed by the Town Board of the Town of Big Bend to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Town Board of the Town of Big Bend pursuant to Ch. 125, Wis. Stats.

(e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture pursuant to Section 1-1-6 of the Town Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

Sec. 7-2-19 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator's License

Sec. 7-2-30 Operator's License Required.

(a) **Operator's Licenses; Class "A", Class "B" or "Class C" Premises.** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A", Class "B" or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A", Class "B" or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

(b) **Use by Another Prohibited.**

(1) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.

(2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

State Law Reference: Secs. 125.17 and 125.32, Wis. Stats.

Sec. 7-2-31 Procedure Upon Application.

(a) Notwithstanding any other provision of this Title 7, the Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Town.

(b) All applications are subject to an investigation by law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. These authorities may conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the authorities may recommend, in writing, to the Town Board approval or denial of the application. If the authorities recommend denial, the authorities shall provide, in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June of each year.

Sec. 7-2-33 Operator's License Fee.

The annual fee for an operator's license or provisional license shall be in accordance with the Town Board's current fee schedule for the term or part thereof, plus actual records check costs. The fee for a provisional license shall be in accordance with the Town Board's current fee schedule.

Sec. 7-2-34 Issuance or Denial of Operator's Licenses.

(a) After the Town Board approves the granting of an operator's license, the Town Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(b) (1) If the application is denied by the Town Board, the Town Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Town Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten
(10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(2) If, upon reconsideration, the Board again denies the application, the Town Clerk-Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.

(c) (1) Consideration for the granting or denial of a license will be based on:

a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
b. The financial responsibility of the applicant;
c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
d. Generally, the applicant’s fitness for the trust to be reposed.

(2) If a licensee is convicted of an offense substantially related to the licensed activity, the Town Board may act to revoke or suspend the license.

(d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years

immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Town Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-35 Training Course.

(a) Except as provided in Subsection (b) below, the Town Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:
   (1) The person is renewing an operator's license.
   (2) Within the past two (2) years, the person held a Class “A”, Class “B”, “Class A”, “Class B” or “Class C” license or permit or a manager’s or operator’s license.
   (3) Within the past two (2) years, the person has completed such a training course.

(b) The Town Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

(c) The Town Board may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

Sec. 7-2-36 Display of License.

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or be in his/her possession, or carry a license card.

Sec. 7-2-37 Revocation of Operator's License.

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator’s license shall be cause for revocation of the license.

Sec. 7-2-38 through Sec. 7-2-39 Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

(a) Forfeitures for violations of Secs. 125.07(l)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Town of Big Bend, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.

(b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Town of Big Bend, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Town of Big Bend.

(c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Title 7 ► Chapter 3

Cigarette License

7-3-1 Cigarette License

Sec. 7-3-1 Cigarette License.

(a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.

(b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Town Clerk-Treasurer a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Town Clerk-Treasurer and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Town Clerk-Treasurer a license fee in accordance with the Town Board's current fee schedule.

(c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Town Clerk-Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

State Law Reference: Sec. 134.65, Wis. Stats.

Title 7 ► Chapter 4

Regulation of Large Assemblies of Persons

7-4-1 Permits for Large Public Gatherings

Sec. 7-4-1 Permits for Large Public Gatherings.

(a) **Intent.**

(1) It is the intent of the Town Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Town of Big Bend, in order that the health, safety and welfare of all persons in the Town, residents and visitors alike, may be protected.

(2) The purpose of this Section is to establish site approval for locations in the Town of Big Bend used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Town Board that there will be compliance with the standards set forth in this Section.

(b) **Scope.** This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than five hundred (500) persons for a one (1) day event and greater than two hundred fifty (250) persons for a two (2) day or more event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies.

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

(1) ***Person.*** Any individual, partnership, corporation, firm, organization, company, association, society or group.

(2) ***Assembly.*** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above.

(3) ***Public Gathering.*** Shall be as defined in Subsection (b) above.

(d) **Permit Required.** No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property, unless a Public Gathering Permit to hold the assembly has first been issued by the Town Board. A permit to hold an assembly issued to one person shall permit any person to engage in any

lawful activity in connection with the holding of the licensed assembly.

(e) **Application for Permit.**

(1) ***Applicant*** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.

(2) ***Filing Period.*** An application for a Public Gathering Permit shall be filed with the Town Clerk-Treasurer not less than seventy-five (75) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.

(f) **Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:

(1) The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.

(2) The name and mailing address of the promoter and/or sponsor of the gathering.

(3) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval five (5) feet above the ordinary high water level.

(4) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of two hundred fifty (250) or more persons.

(5) The nature or purpose of the assembly.

(6) The total number of days and the hours of the day during which the assembly is to last.

(7) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed by the zoning ordinances of the county if the assembly is to continue overnight.

(8) The maximum number of tickets to be sold, if any.

(9) The plans of the applicant to limit the maximum number of people permitted to assemble.

(10) The plans for fencing the location of the assembly and the gates contained in

such fence.

(11) The plans for supplying potable water including the source, amount available and location of outlets.

(12) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.

(13) The plans for holding, collection and disposing of solid waste material.

(14) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.

(15) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.

(16) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.

(17) The plans for camping facilities, if any, including facilities available and their location.

(18) The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.

(19) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.

(20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.

(21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.

(22) The application shall include the bond required in Subsection (g) and the permit fee.

(g) **Bond.** The Town Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Town Board, but not exceeding One Hundred Thousand Dollars ($100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of this Section, the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Town Clerk-Treasurer prior to the issuance of a permit.

(h) **Charge for Increased Costs.** Where the Town Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Town Board may require the permittee to make an additional payment into the general fund of the Town in an amount equal to the increased costs.

(i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Town Board may conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Town Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.

(j) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Town Clerk-Treasurer copies of properly executed contracts establishing the ability to fully provide the services required under this Section:

(1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.

(2) Every site proposed for a Public Gathering Permit shall be on generally well- drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.

(3) Due to the physical characteristics of the site, the Town Board may require that the applicant shall provide proof that he/she will furnish, at his/her own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.

(4) The applicant shall provide proof that he/she has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.

(5) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences if the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.

(6) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, a parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.

(7) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Town Chairperson that additional police protection shall be required, he/she may contact the County Sheriff's Department; and all costs for the additional protection required shall be deducted from the posted cash bond.

(8) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Town, and sufficient emergency personnel to efficiently operate the required equipment.

(9) The applicant shall provide an adequate source of pure water with sufficient

supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1) gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.

(10) The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.

(11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

(12) If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Town and county, sufficient to provide camping accommodations for the maximum number of people to be assembled.

(k) **Reasons for Denial.** Applicants may be denied for any of the following non-exclusive reasons:

(1) It is for a use which would involve a violation of federal or state law or any Town or county ordinance.

(2) The granting of the permit would conflict with another permit already granted or for which application is already pending.

(3) The application does not contain the information or does not properly satisfy the conditions required by this Section.

(4) The application is made less than the required days in advance of the proposed assembly.

(5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.

(6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.

(7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.

(8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.

(l) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Town ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be

presented to any law enforcement officer upon request.

(m) **Recommendations of Governmental Agencies.** The Town Clerk-Treasurer may submit a copy of the application to the County Sheriff's Department and other governmental agencies for their recommendations.

(n) **Permit Revocation.** Any law enforcement officer, the Town Chairperson, or the Town Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, covering the Town and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

(o) **Fees.** The following fees shall be applicable under this Section:

(1) ***Gatherings of 250 to 500 [Two (2) day or More Event).*** A fee in accordance with the Town Board's current fee schedule.

(2) ***Gatherings of 500 to 2,500.*** A fee in accordance with the Town Board's current fee schedule.

(3) ***Gatherings of 2,500 to 5,000.*** A fee in accordance with the Town Board's current fee schedule.

(4) ***Gatherings of Over 5,000.*** A fee in accordance with the Town Board's current fee schedule.

(p) **Certificate of Insurance.** You must have a Certificate of Insurance for general liability with a minimum coverage of $1,000,000.00. The Town of Big Bend must be named as "Additional Insured" before a license may be issued. Simply naming the Town of Big Bend as Certificate Holder is not sufficient. Insurance may be purchased from a private insurance provider. There is no required format for the certificate of insurance as long as it is current and complete. The applicant's personal and/or business name shall be on your certificate of general liability insurance for identification purposes. A Declaration Page shall not be considered the equivalent of a Certificate of General Liability Insurance.

Title 7 ► Chapter 5

Use of Explosives; Blasting Activities

7-5-1 Authority and Purpose
7-5-2 Definitions
7-5-3 Regulation of Explosive Materials and Blasting
7-5-4 Temporary Permits
7-5-5 Regulation of Blasting Resultants
7-5-6 Applicability
7-5-7 Violations and Penalties

Sec. 7-5-1 Authority and Purpose.

(a) **Authority.** This Chapter is adopted pursuant to the police powers granted to the Town under Chapter 60, Wis. Stats., and Wis. Admin. Code SPS 307.

(b) **Purpose.** The purpose of this Chapter is to:

(1) Protect the health, welfare and safety of Town residents and the public;

(2) Protect public and private property located within the Town;

(3) Regulate the use of explosive materials and establish uniform limits on the permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or nuisance to persons or property.

Sec. 7-5-2 Definitions.

(a) The following definitions shall apply in this Chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning:

(1) ***Airblast.*** An airborne shock wave resulting from the detonation of explosives.

(2) ***Approves***. Approval granted by the Town of Big Bend.

(3) ***Blaster.*** Any individual holding a valid blaster's license issued by the Wisconsin Department of Commerce.

(4) ***Blasting.*** Any method of loosening, moving or shattering means of solid matter by use of an explosive.

(5) ***Blasting Operation.*** Any operation, enterprise or activity involving the use of blasting.

(6) ***Blasting Resultants***. The physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration and concussion, which might cause injury, damage or unreasonable nuisance to persons or property located outside the controlled blasting site area.

(7) ***Community.*** A built-up inhabited area.

(8) ***Permitted Explosives Use Area.*** The area that surrounds a blasting site and:

a. Is owned by the operator; or

b. With respect to which, because of property ownership, employment, relationship or agreement with the property owner, the operator can take reasonably adequate measures to exclude or to assure the safety of persons and property.

(9) ***Detonator.*** Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and non-electric instantaneous and delay blasting caps.

(10) ***Department.*** The Wisconsin Department of Commerce.

(11) ***Electric Blasting Cap.*** A blasting cap designed for, and capable of, initiation by means of an electric current.

(12) ***Explosion.*** The substantially instantaneous release of both gas and heat.

(13) ***Explosive.*** Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion unless the compound, mixture or device is otherwise classified by the Department by rule.

(14) ***Explosive Materials.*** Explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black power, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.

(15) ***Flyrock.*** Rock that is propelled through the air from a blast.

(16) ***Ground Vibration.*** A shaking of the ground caused by the elastic wave emanating from a blast.

(17) ***Highway.*** Any public street, public alley or public road.

(18) ***Inhabited Building.*** A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

(19) ***Particle Velocity.*** Any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.

(20) ***Person.*** Any individual, corporation, company, association, firm, partnership, society or joint stock company.

(21) ***Powder Factor.*** Any ratio between the amount of powder loaded and the amount of rock broken.

(22) ***Primer.*** A capped fuse, electric detonator or any other detonating device inserted in or attached to a cartridge of explosive.

(23) ***Stemming.*** The inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.

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

(25) ***Town.*** The Town of Big Bend, Rusk County, Wisconsin.

Sec. 7-5-3 Regulation of Explosive Materials and Blasting.

(a) **General.**

(1) ***General Permit(s) Required.*** No person shall handle or use explosive materials in the Town of Big Bend unless he:

a. Possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification; and

(2) ***Firearms Exception.*** For purposes of this Chapter, blasting does not include the discharge of firearms for hunting or other lawful purposes, or Fireworks pursuant to Chapter. 7-6 of this Title 7.

(b) **Town Permit Requirements.** No person shall handle, use or cause explosives to be detonated within the Town of Big Bend without an explosives use permit issued by the Town of Big Bend, as hereafter set forth, to such, person, his/her supervisor or employer:

(1) ***Application.*** Applications for an explosives use permit shall be in writing upon forms provided by the Town Clerk-Treasurer. Applications shall be accompanied by a permit fee in accordance with the Town Board's current fee schedule. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. Applications may be made by and permits issued to the blasting business, provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The application will identify the licensed blasters operating under the permit and the blasting locations within the Town of Big Bend.

(2) ***Financial Assurance.*** Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a certificate of insurance evidencing comprehensive general public liability insurance against claims for bodily injury, death, or property damage arising out of the blasting operation; such insurance to afford protection to the Town of Big Bend and its residents of not less than One Million Dollars ($1,000,000) with respect to bodily injury or death to any one (1) person, not less than Three Million Dollars ($3,000,000) with respect to any one (1) accident, and not less than One Hundred Thousand Dollars ($100,000) with respect to property damage. The certificate of insurance shall name the Town of Big Bend and its residents as additional insureds under the relevant policy. Any insurance which the blaster is obligated to carry under the terms of this Chapter may be carried under so- called "blanket" policies covering other properties or liabilities of the blaster, provided, that such blanket policies otherwise comply with the provisions of this Subsection. Each insurance policy shall provide that it shall not be cancelled by the insurance company, except after not less than ninety (90) days' notice to the Town, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the blaster must deliver to the Town a replacement insurance policy in absence of which all blasting shall cease. The liability insurance must be issued by a company licensed by the State of Wisconsin to issue the policy. The Town Board reserves the right to increase the amount of the insurance policy depending on the circumstances of the blasting activity.

(3) ***Explosives Use Plan.*** Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are

proposed to be used, blasting procedures to be employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Town Board with a scale of no less than one (1) inch equals one hundred (100) feet and having an overlaying grid of fifty (50) feet by fifty (50) feet which accurately includes all areas and inhabited buildings within five hundred (500) feet of all proposed blasting areas.

(4) ***Hours of Operation.*** Blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday, provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., a loaded hole may be blown within a reasonable time thereafter. Blasting shall not be conducted at other times or on Sundays or legal holidays without written permission from the Town Board or it's designee, which shall only be granted upon a showing of extreme need.

(5) ***Blasting Log.*** An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Town Clerk-Treasurer within seven (7) working days of the initiation of the blast. The Town may require that the permittee furnish to the Town an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Town may obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis if it is determined after an opportunity to be heard that this requirement was violated by the permittee. Each blasting log shall include, but not be restricted to, the following information:

a. Name and license number of blaster in charge of blast;
b. Blast location with grid coordinate references to the supplied aerial photograph or drawing of the explosives use area;
c. Date and time of blast;
d. Weather conditions at time of blast;
e. Diagram and cross-section of blast hole layout;
f. Number of blast holes;
g. Blast hole depth and diameter;
h. Spacing and burden of blast holes;
i. Maximum holes per delay;
j. Maximum pounds of explosives per delay;
k. Depth and type of stemming used;
l. Total pounds of explosives used, including primers and initiating cord;
m. Distance to nearest inhabited building not owned by permittee;
n. Type of initiation system used;
o. Seismographic and airblast information, which shall include:
    1. Type of instrument and last calibration date;
    2. Exact location of instrument and date, time and distance from the blast,
    3. Name and company affiliation of person taking reading;
    4. Name of the person and firm analyzing the seismographic and airblast date when required;
    5. Vibrations and airblast levels recorded; and
    6. Copy of the seismograph printout.

Sec. 7-5-4 Temporary Permits.

(a) **Temporary Permit Requirements.** The Town Clerk-Treasurer, upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of fourteen (14) consecutive working days. The Town Board, in its discretion, may grant one (1) fourteen (14) day extension. Only one (1) temporary permit [and one (1) renewal] can be issued for any given site within the year of permit issuance. Applicants for temporary permits are required to provide financial assurance as specified in Section 7-5-3(b) and provide notice to all neighbors within five hundred (500) feet of the special construction or demolition activity.

(b) **Temporary Permit Categories.** Permits shall be in the following categories:

(1) ***Road, Sewer, Heavy Construction.*** The fee shall not exceed Five Hundred Dollars ($500.00) determined by the Town Board based on the explosive use plan submitted by contractor or blaster.

(2) ***Construction Authorized by Town Board.*** Construction authorized by the Town Board for town use is exempt from the fee. Applicants for these permits are required to file financial assurances as specified in Section 7-5-3(b) and provide notice to all neighbors within five hundred (500) feet.

(3) ***Construction.*** This category includes home building, septic systems, swimming pools, etc. If blasting becomes necessary after the issuance of a building permit, a fee in accordance with the Town Board's current fee schedule will be assessed for the blasting permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

(4) ***Agricultural.*** This category includes stump removal, silo demolition, manure pits, etc. The fee shall be a fee in accordance with the Town Board's current fee schedule for the permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

Sec. 7-5-5 Regulation of Blasting Resultants.

(a) **Purpose of Section.** It is the purpose of this Section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting within the Town does not cause injury, damage or a nuisance to persons or property outside and beyond the permitted explosives use area.

(b) **Instrumentation.** All blast-monitoring instruments used to produce data to support compliance with this Subsection shall meet the following minimum specifications:

(1) ***Seismic frequency range.*** Two (2) to two hundred (200) Hz(± 3 Hz).

(2) ***Acoustic frequency range.*** Two (2) to two hundred (200) Hz (± l Hz).

(3) ***Velocity range.*** 0.02 to four (4.0) inches per second.

(4) ***Sound range.*** One hundred (100) to one hundred forty (140)dB linear.

(5) ***Transducers.*** Three (3) mutually perpendicular axes.

(6) ***Recording.*** Provide time-history of wave form.

(7) ***Printout.*** Direct printout showing time, date, peak air pressure, peak particle velocity

and frequency in three (3) directions and a printed waveform graph of the event depicting measured air blast and particle velocity in the three (3) directions.

(8) ***Calibration.*** At least once every twelve (12) months according to manufacturer's recommendations.

(c) **Control of Adverse Effects Generally.** The permittee shall take necessary steps prescribed by the Town to control adverse effects from his/her activity.

(d) **General Requirements.** Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the permitted explosives use area.

(e) **Airblast.**

(1) ***Limits.*** Airblast shall not exceed the maximum limits listed in Table A-l at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permitted explosives use area. Notwithstanding this general requirement, an annual permit holder subject to this limitation may exceed the limitation on up to five percent (5%) of the blasts it initiates during the period from January 1 to December 31 without violating this Chapter, provided that the airblast produced by such blasts does not exceed the limitations on airblast imposed by the Wisconsin Department of Commerce in Subsection COMM 7.64(2), Wis. Adm. Code, as amended from time to time.

TABLE A-l

AIRBLAST LIMITS

Lower Frequency Limit of Measuring System in Hz	Maximum Level in db
2 Hz or lower – Flat response	123 peak
6 Hz or lower – Flat response	129 peak

(2) ***Monitoring.***

a. The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permittee explosives use area, provided, however, that the permittee may monitor, at another location, approximately the same distance from the blast site, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Town Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site and/or may conduct independent air-blast monitoring to spot-check data supplied by the permittee.

If independent monitoring by the Town after hearing discloses that this Chapter was violated by the permittee, then in that event, the permittee shall pay the reasonable costs incurred by the Town for the independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for

such expenses within thirty (30) days after receipt of such notice.

b. The measuring equipment used shall have an upper end flat frequency response of at least two hundred (200) Hz.

c. All measuring equipment during monitoring shall be spiked to the ground or sandbagged.

(f) **Flyrock.** Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.

(g) **Ground Vibration.**

(1) ***General.***

a. The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside or beyond the permitted explosives use area shall have a maximum peak- particle-velocity limit as provided by the Department, the scaled-distance equation provided by the Department, or the blasting level chart provided by the Department, whichever is applicable hereunder.

b. All structures in the vicinity of the permitted explosives use area, not listed in Subsection (g)(1), such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines shall be protected from damage by establishment by the permit holder of a maximum allowable limit on the ground vibration. The permit holder shall establish the limit after consulting with the owner of the structure.

(2) ***Seismic Monitoring.***

a. The Town Board, in its discretion, may conduct independent seismic blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring was done after good cause was shown therefor and after the permittee was given notice and an opportunity to be heard on the matter, the permittee shall be liable to the Town for all expenses incurred by the Town as a result of such independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for such expenses within thirty (30) days after receipt of such notice.

b. The Town Board, upon good cause shown and after giving the permittee notice and an opportunity to be heard, may request analysis of records and data for any or all blasts which occurred within the permitted explosives use area.

(3) ***Preblasting Notification.***

a. Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures located within an area affected by the permitted explosives use. The affected area shall be determined based on the maximum pounds of explosive per eight (8) MS delay from the previous three (3) years' high. This calculation's square root x one hundred (100) shall determine the affected in area in feet. This calculation shall be the maximum distance from the boundary of the quarry where a preblast survey may be requested. One thousand (1,000) feet shall be the minimum distance for which a preblast survey may be requested regardless of the above calculation. Residents outside of these boundaries may petition the Town Board for a preblast survey, with the survey to be at the quarry

operator's expense. Residents denied this preblast survey may, at their own expense, secure a survey by a company acceptable to the quarry operator. The quarry operator may not unreasonably reject the company proposed to perform the survey. The surveys performed in this paragraph will serve as the basis for damage claims against the quarry operator. The blasting logs used to determine the previous three (3) years' high, as referenced in this Subsection, are available for inspection from the Town Clerk-Treasurer. [See Section 7-5-3(b)(5)].

b. At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the affected area, previously defined in Subsection (g)(3)a immediately above, who may request a preblast survey. All preblast surveys shall include a water quality test for existing wells. The applicant shall cause a preblast survey to be conducted as to such dwellings or structures, and extensive water quality testing for existing wells, provided, however, that the applicant shall not be required to conduct a preblast survey more than once every six (6) years and a well water quality test more than once every four (4) years. The applicant or permittee are responsible for the costs of all requested preblast surveys and water quality tests.

c. The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Town Clerk- Treasurer, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town any objections to the survey report, setting forth in detail such objections.

d. The owner of a dwelling or structure that is within the affected area defined in Subsection (3)(a) above, who subsequent to the preblast survey has substantially modified or improved the dwelling or structure by fifty percent (50%) or more of the fair market value may request a new preblast survey. If it is found that a preblast survey is appropriate, the permittee may conduct such surveys within a reasonable period of time, but not exceeding twice a year for all such requests by all owners. These updated surveys shall be requested in writing submitted to the Town Board, which shall promptly notify the permittee of the request.

e. All expenses incurred as a result of such independent surveys shall be the responsibility of the applicant/permittee. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the applicant/permittee, who shall reimburse the Town for such expenses within thirty (30) days after receipt of such notice.

Sec. 7-5-6 Applicability.

(a) **Effective Date.** All use of explosives and blasting activity conducted in the Town shall be subject to the provisions of this Chapter. Existing operations of whatever nature, including without limitation nonmetallic mining operations, shall comply with the terms of this Chapter.

(b) **Other Ordinances.** Where the provisions of this Chapter conflict with any provisions of

any other Town Ordinance, the provisions of this Chapter, if more restrictive than those of the other ordinances, shall control and shall supersede the provisions of the other ordinances.

(c) **State and Federal Laws.** Where the provisions of this Chapter conflict with the provisions of any applicable State or Federal law or regulation, the provisions of the most restrictive Ordinance, Statute or Regulation shall control, to the extent permitted by State and Federal law.

Sec. 7-5-7 Violations and Penalties.

(a) **Enforcement Provisions.**

(1) ***Enforcement*** The following are criteria that the Town Board may consider for issuance, re-issuance, suspension or revocation of a blasting permit:

a. Compliance with the blasting standards established by the Town of Big Bend as noted herein by this Chapter.

b. Development and submittal to the Town Board of the Town of Big Bend the explosives use plan but fails upon operation to comply with the plan.

c. Development and submittal to the Town Board of the Town of Big Bend the blasting log but fails upon operation to comply with the information called for by the blasting log.

d. Maintaining the financial assurance requested by the Town Board of the Town of Big Bend.

e. Compliance with the operational hours for blasting as noted herein by this Chapter.

f. Compliance with airblast and ground vibration standards established by the Town of Big Bend as noted herein by this Chapter.

g. Compliance with the pre-blasting notification requirements to residents and the Town Board as noted herein by this Chapter.

h. Attempts made by the permittee or party in interest to comply with the provisions of this Chapter.

i. Consideration of atmospheric, unknown conditions including geophysical conditions, and other matters beyond the control of the permittee or party in interest.

(2) ***Suspension/Revocation.***

a. Unless expressly provided herein or by other Town of Big Bend ordinance provisions, the explosive use permit may be suspended or revoked for cause for substantial noncompliance with this Chapter after the proper Town of Big Bend hearing noted below, unless in an emergency condition determined by a designated member of the Town Board and wither the Town Clerk-Treasurer, Fire Marshal or the permit issuer of the Town of Big Bend wherein the license, registration or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Town Board of the Town of Big Bend must, by the Town Clerk-Treasurer of the Town of Big bend, receive a verified complaint concerning the license, registrant or permittee. The following persons may

file a verified complaint with the Town Board of the Town of Big Bend:

1. The Town Chair.
2. The Town Clerk-Treasurer.
3. The Town Supervisors.
4. The County Zoning Administrator.
5. Any law enforcement officer.
6. Any Town of Big Bend resident.
7. A landowner within one thousand (1,000) feet of the blasting site.

b. The Town Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to require a formal evidentiary hearing.

c. The person subject to charges for violation of any Town of Big Bend ordinance or any violation of a condition of the explosives use permit shall be provided a copy of the verified complaint and notice of hearing before the Town Board of the Town of Big Bend. The hearing shall be required to be not less than ten (10) days nor more than thirty (30) days after the receipt of notice, unless stipulated in writing by the Town Board of the Town of Big Bend and the person subject to charges.

d. The person subject to charges for violation of any Town of Big Bend ordinance or any violation of a condition of the explosive use permit shall be entitled to the following:

1. Representation by legal counsel.
2. Right to present and cross examine witnesses.
3. Right to subpoena witnesses by the Town Chair of the Town of Big Bend issuing subpoenas to compel attendance of witnesses.

e. The Town Board of the Town of Big Bend may, after the hearing for any person previously issued an explosive use permit by the Town Board of the Town of Big Bend, act as follows:

1. Revoke the permit as a final decision.
2. Suspend the permit for a date certain as a final decision.
3. Request additional information as an interim decision prior to taking future action.
4. Take no action on the permit as a final decision.

f. The final decision of the Town Board of the Town of Big Bend to revoke or suspend the explosives use permit shall be subject to appeal to the Circuit Court.

(b) **Penalties for Violations.** In addition to the denial, suspension or revocation of a permit issued under this Chapter, any person who shall violate any provision of this Chapter or who shall fail to obtain a permit as required hereunder shall upon conviction of such violation, be subject to a penalty of a civil forfeiture as prescribed in Section 1-1-6 of this Code of Ordinances, or SPS 307.10 Penalties, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter. Any default of such forfeiture determined by a Court of competent jurisdiction shall be subject to any penalties as provided by Sections 66.0109, 66.0113, 66.0115 and 66.0114, Wis. Stats., as may be amended.

Title 7 ► Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation and Licensing of Fireworks

Sec. 7-6-1 Regulation of Fireworks.

(a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(1) Fuel or a lubricant.
(2) A firearm cartridge or shotgun shell.
(3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
(4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
(5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
(6) A toy snake which contains no mercury.
(7) A model rocket engine.
(8) Tobacco and a tobacco product.
(9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
(10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
(11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
(12) A device that emits smoke with no external flame and does not leave the ground.
(13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
(14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(b) **Sale.** No person may sell or possess with intent to sell fireworks, except:

(1) To a person holding a permit under Subsection (c)(3);
(2) To a municipality; or

(3) For a purpose specified under Subsection (c)(2)b-f.

(c) **Use.**

(1) ***Permit Required.*** No person may possess or use fireworks without a user's permit from the Town Chairperson or from an official or employee of the Town as designated by the Town Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.

(2) ***Permit Exceptions.*** Subparagraph (c)(1) above does not apply to:

a. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.

b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.

c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.

d. The possession or use of explosive or combustible materials in any manufacturing process.

e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

(3) ***Who May Obtain Permit.*** A permit under this Subsection may be issued only to the following:

a. A public authority.

b. A fair association.

c. An amusement park.

d. A park board.

e. A civic organization.

f. Any individual or group of individuals.

g. An agricultural producer for the protection of crops from predatory birds or animals.

(4) ***Crop Protection Signs.*** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(5) ***Bond.*** The Town Chairperson issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Town Clerk- Treasurer.

(6) ***Required Information for Permit*** A permit under this Subsection shall specify all of the following:

a. The name and address of the permit holder.

b. The date on and after which fireworks may be purchased.

c. The kind and quantity of fireworks which may be purchased.

d. The date and location of permitted use.

e. Other special conditions prescribed by ordinance.

(7) ***Copy of Permit*** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.

(8) ***Minors Prohibited.*** A permit under this Subsection may not be issued to a minor.

(d) **Storage and Handling.**

(1) ***Fire Extinguishers Required.*** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

(2) ***Smoking Prohibited.*** No person may smoke where fireworks are stored or handled.

(3) ***Fire Chief to be Notified.*** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

(4) ***Storage Distance.*** No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.

(5) ***Restrictions on Storage.*** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

(e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

TITLE 7 ▶ CHAPTER 7

Mobile Home Parks and Campgrounds

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7-7-8 Severability

Sec. 7-7-1 Title/Purpose, Authority and Scope

(a) **Title/Purpose**

The title of this Ordinance is the Town of Big Bend Ordinance Regulating the Operation of Campgrounds.

The provisions of this Ordinance are enacted for the purpose of protecting the public health, safety and general welfare of residents and transients in the Town, to prevent overcrowding and unsanitary conditions on real estate and to establish minimum requirements for the establishment and operation of campgrounds in the Town of Big Bend. The standards and requirements of this Ordinance are intended to provide a wholesome community environment, adequate public services, and the conservation of natural resources, resulting in a desirable recreational facility.

(b) **Authority**

This Ordinance is adopted in accord with §§60.10(2)(c), 60.22(3), & 61.34(1)&(5) Wis. Stats., pursuant to which the Town Board is authorized to adopt police power ordinances for and on behalf of the health, safety, welfare and convenience of the public by necessary and convenient means. The requirements of ATCP 79, Wis. Adm. Code and all other applicable codes shall be minimum standards and are supplemented with this Ordinance.

(c) **Scope**

This Ordinance applies to all lands in the Town of Big Bend, County of Rusk, Wisconsin. The Town Board shall be responsible to administer this Ordinance.

No new or expanded campgrounds may be constructed unless all required approvals have been given.

(d) **Interpretation**

(1) ***Abrogation and Greater Restrictions***

a. Except when set forth expressly herein, it is not the intent of the Town Board to abrogate, annul or repeal any other ordinance of the Town or to alter the applicability of laws which are not of statewide concern within the Town. To the extent that a conflict arises between this and any other ordinance, rule or regulation, the more restrictive of them shall control.

b. Private Covenants. These regulations are not intended to abrogate any easement, covenant, deed restriction, or any other private agreements, or restrictions, provided that where the provisions of these regulations are more restrictive than such easement, covenant, deed restriction or other private agreements or restrictions, the requirements of these regulations shall govern.

(2) ***Liberal Construction.*** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. The provisions of this Ordinance shall be liberally and broadly construed in favor of the Town of Big Bend to promote the purposes for which they are adopted and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town of Big Bend.

(3) ***General.*** Where used herein the word "shall" is mandatory. The word "may" is permissive.

(4) ***Non-Liability.*** The Town does not guarantee, warrant, represent, or hold itself liable for any defects in plans or specifications, false information provided, plan omissions, examination or inspection oversight, construction, or damage that may result in or after installation, and reserves the right to order changes or additions if conditions arise pertaining to the public health, safety, or welfare.

Sec. 7-7-2 Definitions

For the purpose of this Ordinance, the following definitions shall apply:

(a) **Auxiliary Structure.** A structure or structures on a campsite, including, but not limited to, a shed, deck, garage or picnic shelter.

(b) **Camp or Camping.** The use of a shelter, such as a camper vehicle or tent, as a form of temporary residence or for sleeping purposes.

(c) **Campground.** Any parcel or tract of land owned by a person, the state or local government, which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four (4) or more camping units, or by one (1) to three (3) camping units if the parcel or tract of land is represented as a campground.

(d) **Camping Party.** Any individual, family or non-family group occupying a campsite.

(e) **Campsite.** Defined areas within a campground intended for the use of one camping party for overnight camping.

(f) **Camping Unit.** Any single shelter, except sleeping bags and hammocks, used for a camp by a camping party.

(g) **Camper Vehicle.** Means a vehicle, whether factory or home built, whether on or off wheels, whether towed or carried on a motor vehicle or self-propelled, including, but not limited to, recreational vehicles, hitch mount pull behind trailers, pop up tent trailers, campers meant to be affixed to the bed of trucks and converted vehicles such as buses, trucks, or trailers. Such vehicles may be with or without complete kitchen and toilet facilities, self-contained water and sewage systems and designed to be used as a temporary dwelling for travel, recreation, or vacation use and having a maximum main floor area of 400 square feet. "Camper Vehicle" does not include mobile homes, manufactured homes, park models, and tiny homes.

(h) **Condominium Campground.** A campground in which sites are owned individually and the building common areas and facilities are owned by all owners on a proportional undivided basis. A condominium campground is a legal form of ownership and not a specific campground type or style.

(i) **County.** Rusk County, Wisconsin

(j) **County Highway.** A highway, inclusive of all public ways and thoroughfares and all bridges on the same, operated by the County for public travel purposes.

(k) **Inspector.** The Town Building Inspector for the Town of Big Bend or other person designated by the Town Board.

(l) **Licensee.** Any person licensed by the Town to operate and maintain a campground.

(m) **Non-permanent structure.** A physical shelter having form and substance, including, but not limited to floor, walls, windows, doors and a roof, which is not permanently affixed to a foundation and whose supplies of potable water, sewage disposal and electrical current, among other utility services, are not permanently attached or incorporated into the design of the structure in accord with applicable state or local codes. This includes, but is not limited to, what are commonly referred to as tents and tent platforms.

(n) **Parcel or Lot.** A unit or parcel of land legally described and of record with the county Register of Deeds.

(o) **Person.** Any natural person, partnership, corporation or other form of association.

(p) **Plan Commission.** The Town Plan Commission of the Town of Big Bend shall also be known as the Town Ordinance Committee.

(q) **Police Power Ordinances.** The government's right to impose laws, statutes and ordinances, including zoning ordinances and building codes, to protect the public health, safety and welfare.

(r) **Pre-existing Campground.** Any licensed and lawfully operating campground existing prior to date of the passing of this ordinance.

(s) **Town Board.** The Town Board of the Town of Big Bend.

(t) **Town.** The Town of Big Bend, Rusk County, Wisconsin.

(u) **Town Road.** A highway, inclusive of all public ways and thoroughfares and all bridges on the same, operated by the Town for public travel purposes.

Sec. 7-7-3 Licenses, Applications and Renewals

(a) **Licenses**

(1) No person shall own, operate or maintain a campground on real estate in the Town of Big Bend without first having obtained a license for such campground from the Town Board in accord with this Ordinance. Campground licenses shall be valid for one (1) year, except the initial license shall expire on June 30 of the next or current year (with the fee being pro-rated accordingly).

(2) A copy of the current County license for the campground plus a copy of the most recent ATCP 79 inspection report, if applicable, must be submitted at the time of license application or renewal.

(3) No campground shall be operated without a valid license from the Town.

(4) At the time of filing of a license application the applicant shall pay the Town the application fee in an amount established by a resolution of the Town Board from time to time and on file in the office of the Town Clerk.

(5) All reasonable costs incurred by the Town Board or its agents to properly review the Campground license application, and any proposed variance, including the

employment of the necessary services of engineers, attorneys, planners and other professional consultants for said review, shall be the responsibility of the applicant who shall timely and fully reimburse the Town of Big Bend for these costs. The Town Board may require that all or a portion of the known costs of application approval and variance review be paid in advance. The Town Board may also establish a deposit schedule for review fees.

(6) Should the license application not be timely (within 15 days of its being due), there shall be a penalty fee as stipulated in Appendix A imposed in addition to the regular license fee.

(7) The license application shall include the name, address, telephone number, fax number and email address, if any, of each owner or operator of the campground and the legal description of the property on which the campground is located.

(8) Licenses issued under this Ordinance are not transferable without the express, written approval of the Town Board.

(9) Multiple licenses shall not be issued for a single parcel.

(10) No person shall apply for and no campground license shall be issued for a campground which occupies all or portions of adjoining parcels or lots. Each applicant shall be required to prove to the Town Board that all of the land upon which the campground is proposed to be situated is owned or controlled by the applicant under a lease from the owner and the Town Board reserves the right to require of the applicant, where the campground site extends over lot lines onto two or more parcels owned or controlled by the applicant, that the applicant combine those legal descriptions through the creation of a certified survey map. Nor may any person apply for or receive multiple campground licenses with which to operate separate campgrounds on the same or adjoining parcels or lots.

(b) **New Applications to Operate a Campground**

(1) Applications for new campgrounds or additions to existing campgrounds shall be subject to approval or denial by the Town Board acting in accord with the requirements and restrictions of this Ordinance and all other applicable ordinances and laws.

(2) In considering the initial approval for any person or persons seeking to operate a campground in the Town of Big Bend, the Plan Commission will, at a minimum, weigh its compatibility with the State and County regulations, with the conservation of natural resources and with this Ordinance.

(3) Persons wishing to establish a new campground or an addition to an existing campground in the Town of Big Bend shall:

a. Appear before the Town Plan Commission and the Town Board for approval **before** seeking any required Land Use Permits from Rusk County.

b. Provide the legal description of the property and photos showing pre-construction ground surface slope, roads, paths and other natural aspects of the land along with a scaled plan or map of the proposed campground.

(4) Before approval for the use of land for a new campground or for modifications to or expansion of an existing campground, the Town Board shall hold a public hearing on a Class II Public Notice. In the event that approval is denied, the Town Board shall provide the reasons therefore to the owner or operator in writing.

(5) The application for the license for the operation of a campground or campground addition must include the following items. The application shall not be considered complete and no license to operate will be issued until all items are submitted to the satisfaction of the Town.

a. The number, placement of and dimensions of each campsite.

b. The location and size of all washrooms, restrooms, solid waste disposal facilities and sanitary waste disposal facilities, the number and construction and maintenance of which shall be in accord with applicable state, county and local health and safety standards. In addition, the plan shall reflect the location of all private sanitary disposal systems, natural gas lines, oil or gas storage facilities, public telephones, storm shelters and other buildings which are located upon the campground, including those made available to camping parties and those whose use is restricted or personal to the owner or operator.

c. Location, size and purpose or function of all other facilities made available to the use of camping parties and situated in and upon the grounds of the campground.

d. Proof of compliance with all applicable sections of SPS 316 of the State Electrical Code, and SPS 381-391 of the State Plumbing Code. This proof shall be in the form of all inspection reports for rough-in and final inspections done by credentialed commercial plumbing and commercial electrical inspectors. This proof shall be submitted whenever available at a date later than the application.

e. For applicants who do not own the property on which the proposed campground is located, a copy of the lease or other contract by which permission or authority to make use of the real estate for purposes of operation of a campground have been granted to the applicant by the owner thereof.

f. Such other and further information or plans as are deemed by the Town Board to be necessary for it to fully consider and where appropriate to grant a campground license under this Ordinance.

(6) For any new or expanded campground, the campground operator shall provide to the Town, prior to the issuance of its campground license, a performance bond in the amount, not to be less than Five Thousand Dollars ($5,000) or such additional amounts as the Town Board deems to be appropriate based on the size and improvements of the campground, to guarantee to the Town that upon loss or surrender of its campground license, the operator shall remove all camping units from the licensed parcel or lot and properly dispose of all debris and solid waste remaining upon its cessation of operation. The Town Board shall approve of both the amount of the bond as well as its issuer and the Town shall be named as the beneficiary of the said bond. This provision shall not apply to pre-existing campgrounds.

(7) No campground license shall be issued for a proposed campground layout that is bisected by a County Highway or Town Road without an adequate safety plan proposal attached.

(c) **Pre-Existing Campgrounds**

(1) Any pre-existing campground may continue to be operated as previously operated even though the manner in which the business is conducted is not in full conformity with the provisions of this Ordinance, provided that, pre-existing campgrounds shall be required to obtain a license and pay all applicable fees and shall conform their operations to comply with Section 7-7-5 of this Ordinance. A change in ownership will not affect the status of a campground as a pre-existing campground.

(2) No pre-existing campground may be expanded or added to except in conformity with this Ordinance. In cases where a campground is expanded or added to, only the area expanded or added to must conform to this ordinance.

(3) Any pre-existing campground that has lapsed their license for a period of one (1) license cycle per 7-7-3(a)(1) shall not be re-established except in conformity with all provisions pertaining to new campgrounds contained in this Ordinance.

(d) **Renewal of Campground License**

(1) Applications for renewal of campground licenses must include:

a. The name, address, telephone number, fax number and email address, if any, of each owner or operator of the campground and the legal description of the property on which the campground is located.

b. Proof of required Onsite Waste Treatment System (POWTS) maintenance as required by Rusk County and the State of Wisconsin.

c. A copy of the current County license for the campground plus a copy of the most recent County inspection report and, if applicable, evidence of satisfactory remediation of any noted violations.

d. The appropriate fee according to Appendix A.

(2) No public hearing shall be required for renewal of a campground license.

Sec. 7-7-4 Physical Layout

(a) **Density and Size of Campsites**

Campsites shall be a maximum of 15 sites per acre with an average of 2900 square feet per site. Roads, driveways and vehicle parking areas adjacent to campsites may be included in the minimum average computation. Public areas and vehicle parking areas detached from campsites may not be included in the minimum average calculation.

(b) **Buffers and Screening**

Buffers and screening must comply with state and county regulations.

(c) **Roadways and Parking**

(1) Each campsite designed for vehicular camping units shall have frontage upon an access drive or private road maintained by the campground for the purpose of vehicular and pedestrian access to and from an adjoining public roadway.

(2) Where access drives or private roads are provided they shall not be less than 12 feet in width and 16 feet overhead clearance to allow for adequate access to each campsite for emergency vehicles.

(3) Where crossing a County Highway or Town Road is necessary to access a river, stream, lake or pond, a County or Town approved pedestrian crosswalk shall be required as part of the safety plan proposal referenced in 7-7-3(b)(7).

(4) Whether attached to individual campsites or otherwise, each campground may provide adequate space for the parking of at least two (2) motor vehicles per campsite in addition to the site provided for the camping unit which occupies each such site. Each such parking space shall be at least 20 feet in length by 10 feet in width and shall not block access by emergency vehicles. Motor vehicles shall not be substituted for or used as camping units.

(d) **Condominium Campgrounds**

The provisions of this ordinance shall be applicable to any proposed condominium campground.

(e) **Other Structures**

(1) No auxiliary or non-permanent structure shall be fixed, mounted or attached to a camper vehicle in any manner which would prevent the ready removal and transport of the camper vehicle.

(2) No auxiliary or non-permanent structures larger than a combined 400 square feet shall be allowed at any campsite.

(3) If a fish and game cleaning station is provided it must be reasonably fly-tight and vermin-proof and maintained in a sanitary manner.

(4) In areas of the campground where open fire is permitted, fire rings are required.

Sec. 7-7-5 Operating Regulations

(a) **Postings and Inspections**

(1) A copy of this Ordinance, the campground license and emergency contact numbers shall be available on the campground premises for public review.

(2) All portions of the real estate upon which a licensed campground is located and which are open to the public, including all open spaces and enclosures, buildings or other structures used or made available for use by the public in association with the operation of said campground and structures outside of the designated campground area that supply or house utilities, shall be open to the Town, its officers, inspectors, health officers, law enforcement officers, firefighters and ambulance and emergency rescue personnel for purposes of inspection of the premises for compliance with this Ordinance. The licensee, by applying for and holding a Town license, shall be deemed to have consented to said entry of the aforementioned officers, at reasonable hours of the day.

(b) **Health and Safety**

(1) The maximum number of overnight guests allowed at any one campsite shall be per ATCP 79.11(5)(a).

(2) The maximum number of camper vehicles allowed at any one campsite shall be one (1).

(3) With the express exception of motor vehicles parked on campsites in accord with Section 7-7-4(c)(4) above, only camper vehicles shall be allowed on campsites.

(4) It shall be the responsibility of each campground owner/operator to maintain the campground in a clean, orderly, safe and sanitary condition and comply with this Ordinance and all other applicable ordinances, administrative codes and laws.

(5) All plumbing, sanitary and electrical facilities, gas distribution lines and other public facilities in each campground shall be constructed, operated and maintained in accord with all applicable state, county and local laws, ordinances and regulations at the time that such systems were installed.

(6) One (1) Type 2A10BC fire extinguisher shall be provided for each public building in the campground. It shall be the responsibility of the operator to ensure that all required fire extinguishers are in operating order at all times that the campground is open to the public.

(7) No camping unit that has been damaged by fire or other casualty or which is deemed to be uninhabitable due to structural reasons, plumbing, or electrical malfunctioning, or disconnection, shall be allowed to be inhabited until proper repairs or reconnections to utilities have been made. Each camping unit that has been damaged or which is otherwise deemed to be uninhabitable for one of the reasons set forth in this paragraph shall either be fully repaired or restored to serviceable use or, in the alternative, shall be removed from the campground within 30 days of the date when it was damaged or became uninhabitable.

(8) No person shall establish a special events campground pursuant to Wis. Adm. Code ATCP 79.26 without first obtaining a permit from the Town. The Town Board shall consider the health, welfare, and safety of potential campers and residents of the Town before any permit approval.

Sec. 7-7-6 Violations and Penalties

(a) **Violations**

1. Any and all enforcement and penalties are to be under the jurisdiction of ACTP 79.07-79.10.
2. In addition to 7-7-6(a)(1) above, the Town of Big Bend retains the right to revoke, suspend, or place limitations on a campground license if the Town Board has evidence that the campground is in habitual violation of this Ordinance or other Town Ordinances, the County campground license is revoked or not renewed or if there are habitual law enforcement issues of any other nature at the campground.

Sec. 7-7-7 Campground Ordinance Operation in Addition to Other Ordinances, Laws and Regulations

Except as to provisions of other ordinances of the Town which are expressly in conflict with the provisions of this Ordinance, which prior ordinances shall be deemed to be repealed or replaced by this Ordinance, it is not the intent of this Ordinance to repeal or amend any other ordinances and to the extent that other ordinances of the Town or of the County or laws or regulations of the State of Wisconsin may regulate the operation of campgrounds, they shall remain in full force and effect in the Town.

Sec. 7-7-8 Severability

Should any section, paragraph or other provision of this Ordinance be declared by a court of competent jurisdiction to be illegal or unconstitutional, it shall be severed from the remainder of the Ordinance, which shall remain in full force and effect as if the offending portion was never adopted.

Title 7 ► Chapter 8

Coin-Operated Machines

7-8-1 Coin-Operated Machines

Sec. 7-8-1 Coin-Operated Machines.

(a) No person or corporation shall operate or maintain, within the Town of Big Bend, any coin- operated amusement machine without first having obtained a license to operate or maintain such machine as hereinafter provided.

(b) All licenses to be issued by the Town Clerk-Treasurer upon application made to the Town Clerk-Treasurer in writing stating the type of machine and place or location where same is to be operated, and the period of time to be covered by the license. All licenses to be issued only upon the approval of the Town Board. All licenses issued under the provisions of this Chapter shall expire on June 30th of each year.

(c) The fee for licenses issued under provisions of this Section shall be as prescribed in the Town Fee Schedule per year for each machine or unit operated.

Title 7 ► Chapter 9

Licensees to Pay Local Claims; Appellate Procedures

7-9-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
7-9-2 Duty of Clerk-Treasurer with Regard to Licenses

Sec. 7-9-1 Licensees Required to Pay Local Taxes, Assessments and Claims.

(a) **Payment of Claims.** The Town shall not issue or renew any license to transact any business within the Town of Big Bend:
  (1) For any purposes for which taxes, assessments, bills or other claims of the Town are delinquent and unpaid.
  (2) For any person who is delinquent in payment:
    a. Of any taxes, assessments, bills or other claims owed the Town; or
    b. Of any forfeiture resulting from a violation of any Town Ordinance.

(b) **Exemption.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.

(c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

(d) **Hearings.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
  (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time, and Town ordinances.
  (2) With respect to licenses other than those described in Subsection (a) herein, the Town Board or its assignee shall notify the applicant in writing of the Town's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Town Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Town

Board shall conduct a hearing with respect to the matter. At the hearing, both the Town and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Town Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

(e) **Appeals.** Where an individual, business or corporation wishes to appeal the Town Clerk- Treasurer's or Town Board decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Town Clerk-Treasurer that the matter be referred to the Town Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Town Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

Sec. 7-9-2 Duty of Clerk-Treasurer with Regard to Licenses.

The Town Clerk-Treasurer shall be charged with the administration of all ordinances relating to licenses unless otherwise provided by the Town Board.

Title 8

Health and Sanitation

Reserved for future use.

TITLE 9

Public Utilities

Reserved for Future Use

Title 10

Motor Vehicles and Traffic

Chapter 1	**Traffic and Parking**
Chapter 2	**All-Terrain Vehicles and Off-Road Motor Vehicle Operation**
Chapter 3	**Snowmobiles**
Chapter 4	**Unlicensed, Unregistered, Junk Vehicles**
Chapter 5	**Exhibition Driving**

Title 10 ► Chapter 1

Traffic and Parking

10-1-1 State Traffic Laws Adopted
10-1-2 State Administrative Code Provisions Adopted
10-1-3 Official Traffic Signs and Control Devices; Prohibited Signs, Signals and Markers
10-1-4 Registration Record of Vehicle as Evidence
10-1-5 Cost of Enforcement Towing
10-1-6 through 10-1-9 Reserved for Future Use
10-1-10 Operators to Obey Traffic Control Devices
10-1-11 Vehicle Weight and Size Limitations
10-1-12 Speed Limits
10-1-13 through 10-1-19 Reserved for Future Use
10-1-20 Restrictions on Parking; Posted Limitations
10-1-21 Stopping or Parking Prohibited in Certain Specified Places
10-1-22 Parking Reserved for Vehicles of Disabled

Sec. 10-1-1 State Traffic Laws Adopted.

(a) **Statutes Adopted.** Except as otherwise specifically provided in this Code, the statutory provisions in Chapters 110, 194, and 340 through 349 of the Wisconsin Statutes, describing and defining regulations with respect to vehicles and traffic, are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. The statutory sections listed shall be designated as part of this Code by adding the prefix "10-1-" to each statute section number. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the statutory regulations in Chapters 340 through 349 incorporated herein are intended to be made part of this Chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin.

(b) **Other State Laws Adopted.** There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this Chapter shall be as provided in Chapters 340 through 349 of the Wisconsin Statutes.

(c) **Statutes Specifically Incorporated by Reference.** Whenever this Chapter incorporates by reference specific sections of the Wisconsin Statutes, such references shall mean the Wisconsin Statutes of 1999-2000 as from time to time amended, repealed or modified by the Wisconsin Legislature.

(d) **General References.** General references in this Chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

Sec. 10-1-2 State Administrative Code Provisions Adopted.

(a) **Administrative Regulations Adopted.** The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this Chapter as if fully set forth herein.

Wis. Adm. Code – MVD 5	Standards for Motor Vehicle Equipment
Wis. Adm. Code - MVD 6	Transportation of Explosives by Motor Vehicle
Wis. Adm. Code– MVD12	Leasing of Vehicles by Private Carriers
Wis. Adm. Code – MVD18	Protective Headgear Standards and Specifications
Wis. Adm. Code - MVD 22	Standards and Specifications - Design and Mounting SMV Emblem

Sec. 10-1-3 Official Traffic Signs and Control Devices; Prohibited Signs, Signals and Markers.

(a) **Duty to Erect and Install Uniform Traffic Control Devices.** Whenever traffic regulations created by this Chapter, including a State of Wisconsin traffic regulation adopted

by reference in Section 10-1-1, require the erection of traffic control devices for enforcement, the Town Board shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever State law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the judgment of the Town Board, will carry out the purposes of this Chapter and give adequate warning to users of the streets and highways of the Town of Big Bend.

(b) **Prohibited Signs and Markers in Highways.** No person other than the Town Board or an official authorized by this Chapter to erect and maintain official traffic control devices or his or her designee shall place within the limits of any street or highway maintained by the Town any sign, signal, marker, mark or monument unless permission is first obtained from the Town Board or, where applicable, the State Highway Commission. Any sign, signal, marker, mark or monument placed or maintained in violation of this Subsection shall be subject to removal as provided in Subsection (c).

(c) **Removal of Unofficial Signs, Markers, Signals and Traffic Control Devices.** The Town Board, or its designee, may remove any sign, signal, marking or other device which is placed, maintained or displayed in violation of this Chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be reported to the Town Board for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

State Law Reference: Sections 346.41 and 349.09, Wis. Stats.

Sec. 10-1-4 Registration Record of Vehicle as Evidence.

When any vehicle is found upon a street or highway in violation of any provision of this Chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this Chapter and specifically Section 10-1-1 and shall be subject to the applicable forfeiture penalty; provided the defenses defined and described in Sec. 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

Sec. 10-1-5 Cost of Enforcement Towing.

Whenever a vehicle is found to be in violation of any provision of this Chapter and/or state law and must be towed, the cost thereof shall be the responsibility of the vehicle's owner.

Sec. 10-1-6 through Sec. 10-1-9 Reserved for Future Use

Sec. 10-1-10 Operators to Obey Traffic Control Devices.

Every operator of a vehicle approaching an intersection at which an Official Traffic Control Device is erected in accordance with this Chapter shall obey the direction of such Official Traffic Control Device as required by the Wisconsin Statutes incorporated by reference in Section 10-1-1 of this Chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by Sec. 346.46, Wis. Stats. Operators approaching intersections at which a yield sign has been installed shall yield the right-of-way to other vehicles as required by Sec. 346.18(6), Wis. Stats.

Sec. 10-1-11 Vehicle Weight and Size Limitations.

(a) **Designation — Roads and Highways.** All roads and highways maintained by the Town of Big Bend, Rusk County, Wisconsin, are hereby designated as Class "B" highways for the purpose of putting into effect the weight limitations and other authorized controls set forth in Chapter 348 and 349, Wis. Stats.

(b) **Weight Limitations.**

(1) The Town hereby adopts the weight limitations set forth in Chapter 348.15 and 348.16, Wis. Stats., as amended, as those weight limits affect the permissible limits on Class B highways within the Town.

(2) No person without a permit shall operate or cause a vehicle to be operated on any Class B highway within the Town, any vehicle or combination of vehicles unless the vehicle or combination of vehicles comply with the weight limitation as set forth in Chapter 348.15 and 348.16, Wis. Stats., as amended.

(c) **Exceptions.**

(1) No person shall operate, whether operating under a permit or otherwise, shall operate a vehicle in violation of any special weight limitations imposed by the Town Board on particular highways, highway structures, or portions of highways, if signs have been erected as required by Chapter 349.16(2), Wis. Stats., as amended, except when the vehicle is being operated under a permit expressly authorizing such weight limitations to be exceeded.

(2) Whenever the operator of a vehicle is ordered by the officer or agency in charge of maintenance or by a traffic officer to suspend operation of such vehicle because of the damage such vehicle is causing or is likely to cause to the highway or the public investment herein, he/she shall forthwith comply with said order.

(3) Certain vehicles may operate in excess of the gross limitations above specified if said operation is in full compliance with Chapter 348.175 and 348.18, Wis. Stats., (which are hereby incorporated herein by reference.)

(d) **Weight Indication.** No person shall operate upon any Town road any motor truck, truck tractor, road tractor or motor bus, or a trailer or semitrailer used in connection therewith, unless there is attached to or lettered upon the left side thereof a sign giving its empty weight. A sign in conformity with any regulation or alternate rule which has been designated by the Wisconsin Department of Motor Vehicles would be deemed to be in conformity with this Section.

(e) **Forfeitures.** If convicted, violations of this Section shall be subjected to the same forfeitures as set forth in the corresponding sections of Chapter 348 and/or 349, Wis. Stats. Each day of violation shall be deemed to be a separate and distinct violation, and if an owner or operator operates more than own truck on Town roads in violation in each occurrence shall be a separate and distinct violation.

(f) **Compliance With State Statutes.** Nothing in this Section shall be construed, or is intended to be contrary to, or inconsistent with, Chapter 341 to 348, Wis. Stats., and any provision of this Section which may appear in conflict with said statutes, and which is not expressly authorized by Section 349.06 to 349.25, Wis. Stats., shall be, and hereby is modified and interpreted to conform to said statutes and the authority permitted therein for creation of this Section and each section thereof, and authorizing penalties for violation hereof.

(g) **Permits.** Applications for permits shall be made through the Town Clerk-Treasurer and the designated local official, now being the Town Chairperson, countersign, and all permits may be signed by the Town Chairperson or his/her designee and certified by the Town Clerk-Treasurer. Permits shall be generally subject to the provisions set forth for issuance of such permits as set forth in Chapter 348.25, Wis. Stats.

Sec. 10-1-12 Speed Limits.

(a) The Town of Big Bend designates the sections of Town roads listed below to have speed limits reduced to thirty-five (35) miles per hour, pursuant to Ch. 346, Wis. Stats.:
   (1) Plummer Road from fire number W14321 to W14493.
   (2) Roses Resort Road from fire number N1181 to N10111.
   (3) Indian Point Road: Entire road.
   (4) Eau Claire Avenue: Entire road.

(b) Chapter 346, Wis. Stats, allows towns to reduce speed to thirty-five (35) miles per hour on any town road where, on either side of the highway within any one thousand (1,000) feet along such highway, the buildings in use for business, industrial or residential purposes fronting thereon average less than one hundred fifty (150) feet apart.

(c) No person shall drive a vehicle at a speed in excess of thirty-five (35) miles per hour in the area posted with such speed limit signs.

(d) The Town Board will post signs as provided in the statutes so as to give adequate warning to users of roads with reduced speed limits.

Sec. 10-1-13 through Sec. 10-1-19 Reserved for Future Use

Sec. 10-1-20 Restrictions on Parking; Posted Limitations.

(a) **Forty-eight (48) Hour Limitation.** No one shall park or leave standing any automobile, truck, tractor, trailer or vehicle of any description on any public streets or public parking lots in the Town of Big Bend for a period of forty-eight (48) or more consecutive hours in the same location at any time, except that where more restrictive parking limits have been established, the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street or parking lot in

violation of the provisions of this Section, he/she is authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this Chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area where storage space is available and in such case the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before he/she may recover the possession thereof.

(b) **Posted Limitations.**

(1) The Town Board may designate certain streets or portions of streets as no parking or no stopping or standing zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The Town shall mark, by appropriate signs, each zone so designated in accordance with the provisions of Sec. 349.13, Wis. Stats.

(2) Except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Code of Ordinances.

(3) The Town Board shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight limitations on any highway or portions thereof which, because of the weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

(4) No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.

Sec. 10-1-21 Stopping or Parking Prohibited in Certain Specified Places.

(a) **Parking Prohibited at All Times.** Except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers or property and while the vehicle is attended by a licensed operator so that it may be moved promptly in case of an emergency or to avoid obstruction of traffic, no person shall at any time park or leave standing any vehicle:

(1) Within an intersection.

(2) On a crosswalk.

(3) On a sidewalk or terrace area, except when parking in such place is clearly indicated by official traffic signs or markers or parking meters. "Terrace or Sidewalk Area" means that area between the sidewalk and the nearest curb line running parallel or generally parallel thereto or in the absence of a sidewalk ten (10) feet beyond the curb line.

(4) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.

(5) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.
(6) Within a fire lane consisting of either the driveway between the front doors of a Fire Station and the public street or in such places properly designated and marked as fire lanes ordered by the Fire Chief.
(7) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.
(8) In any place or manner so as to obstruct, block or impede traffic.
(9) Within ten (10) feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.
(10) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.
(11) Upon any bridge.
(12) Upon any street or highway within the Town any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.
(13) Upon any terrace or sidewalk in the Town at any time.
(14) In a loading zoning.
(15) Within six (6) feet of the entrance to an alley, private road or driveway.
(16) In any municipal park when said park is closed to the public and if so posted.

(b) **Vehicles Not to Block Private Drive, Alley or Fire Lane.** No vehicle shall, at any time, be parked so as to unreasonably restrict the normal access to any private drive, alley or fire lane. Said access shall be deemed to be unreasonably restricted if any vehicle is parked within four (4) feet of either side of said access. Upon discovery by a law enforcement officer or upon complaint by the owner of any such blocked drive, alley or fire lane, the law enforcement officer may order said vehicle towed from such position at the risk and expense of the owner of said vehicle.

Sec. 10-1-22 Parking Reserved for Vehicles of Disabled.

When official traffic signs indicating such restriction have been erected in accordance with Section 10-1-3 of this Chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction designating the vehicle as one used by a physically disabled person.

Title 10 ► Chapter 2

All-Terrain Vehicles and Off-Road Motor Vehicle Operation

Sec. 10-2-1 State All-Terrain Vehicle Laws Adopted; ATV-UTV Regulations.

(a) **Title and Purpose.** The title of this ordinance is the Town of Big Bend All-Terrain Vehicle and Utility Terrain Vehicle Route Ordinance. The purpose of this ordinance is to establish all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the operation of all-terrain vehicles and utility terrain vehicles in the town.

(b) **Authority.** The Town Board of the Town of Big Bend, Rusk County, Wisconsin, has the specific authority to adopt this All-Terrain Vehicle and Utility Terrain Vehicle Ordinance under s. 23.33 (8) (b) and (11), Wis. stats.

(c) **Adoption of this Ordinance.** This ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the town to designate all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the use of those routes and all-terrain vehicles and utility terrain vehicles in the town, designates all-terrain vehicle and utility terrain vehicle routes in the town, and provides for the regulation of the use of those routes and of all-terrain vehicles and utility terrain vehicles in the town.

(d) **Designation of All-Terrain and Utility Terrain Vehicle Routes.**

(1) The following routes are designated all-terrain vehicle and utility terrain vehicle routes in the town:

- All Town Roads.

(e) **Conditions Applicable to All-Terrain Vehicle and Utility Terrain Vehicle Routes.**

(1) Pursuant to s. 23.33 (8) (d), Wis. stats., the following restrictions are placed on the use of the town all-terrain vehicle and utility terrain vehicle routes designated by this resolution:

a. Routes shall be marked with uniform all-terrain vehicle and utility terrain vehicle route signs in accordance with s. NR 64.12 (7), Wisconsin Administrative Code. No person may do any of the following in regard to signs marking town all-terrain vehicle and utility terrain vehicle routes:

1. Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard or intentionally

interfere with the effective operation of any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the state, any municipality, or any authorized individual.

2. Possess any uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction, or information of the public, unless he or she obtained the uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle and utility terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.

(2) Operation shall be subject to all provisions of s. 23.33, Wis. stats., which is adopted as a part of this ordinance by reference, pursuant to s. 23.33 (11), Wis. stats.

(3) A copy of this ordinance shall be sent by the town clerk to the Department of Natural Resources, the Rusk County Sheriff's Department and any other law enforcement agency serving the Town of Big Bend's jurisdiction.

(4) Additional Restrictions.

a. All-terrain vehicle (ATV) and utility terrain vehicle (UTV) operators shall travel at speeds not in excess of thirty (30) miles per hour or the posted speed limit, whichever is less, on all Town roads.

b. All all-terrain vehicle and utility terrain vehicle operators shall ride single file.

(f) **Enforcement.** This ordinance may be enforced by any law enforcement officer authorized to enforce the laws of the state of Wisconsin [and additionally as stated in the Town's citation authority ordinance adopted per s. 66.0113].

(g) **Penalties.** The penalties under s. 23.33 (13) (g), Wis. Stats., are adopted by reference.

(h) **Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Title 10 ► Chapter 3

Snowmobiles

10-3-1 Purpose
10-3-2 Authority
10-3-3 Designation of Snowmobile Routes
10-3-4 Conditions Applicable to Snowmobile Routes
10-3-5 Enforcement
10-3-6 Penalties
10-3-7 Severability

Sec. 10-3-1 Purpose.

The purpose of this ordinance is to establish snowmobile routes in the Town of Big Bend and to regulate the operation of snowmobiles in the town.

Sec. 10-3-2 Authority.

The town board has the specific authority to adopt this Snowmobile Route Ordinance under s. 350.18, Wis. Stats. and general authority under its village powers under s. 60.22, Wis. Stats.

Sec. 10-3-3 Designation of Snowmobile Routes.

All roadways and shoulders in the Town of Big Bend are designated snowmobile routes.

Sec. 10-3-4 Conditions Applicable to Snowmobile Routes

(a) **Markers.** Town highways designated as snowmobile routes shall be marked with uniform snowmobile route signs in accordance with Sec. 350.13, Wis. Stats. No person may do any of the following in regard to signs marking town snowmobile routes:

(1) Intentionally remove, damage, deface, move, or obstruct any uniform snowmobile route or trail sign or standard of the type established by the State of Wisconsin, Department of Natural Resources or intentionally interfere with the effective operation of any uniform snowmobile route or trail sign or standard if the sign or standard is legally placed by the state, any municipality, or any authorized individual.

(2) Possess any uniform snowmobile route or trail sign or standard of the type established by the State of Wisconsin, Department of Natural Resources for the warning, instruction, or information of the public, unless he or she obtained the uniform snowmobile route or trail sign or standard in a lawful manner. Possession of a uniform snowmobile route or trail sign or standard creates a rebuttable presumption of illegal possession.

(b) **Snomobile Operation.** Operation shall be subject to all provisions of Sec. 350.04 (2), Wis. Stats., and any other provision of Chapter 350, Wis. Stats., which is adopted as a part of this ordinance by reference, pursuant to Sec. 350.18, Wis. Stats.

(c) **Notice to Law Enforcement.** A copy of this ordinance shall be sent by the town clerk to the Rusk County Sheriff's Department.

(d) **Additional Restrictions.**

(1) All snowmobile operators shall observe posted roadway speed limits.

(2) All snowmobile operators shall ride single file.

(3) All snowmobile operators shall ride to the extreme right side of the roadway and travel with the flow of traffic.

(4) All snowmobiles shall be operated with a headlight on at all times.

(5) All snowmobile operators shall yield the right-of-way to other vehicular and pedestrian traffic.

Sec. 10-3-5 Enforcement

This ordinance may be enforced by any law enforcement officer authorized to enforce the laws of the state of Wisconsin.

Sec. 10-3-6 Penalties

The penalties under Sec. 350.11 Wis. Stats., are adopted and incorporated by reference.

Sec. 10-3-7 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Title 10 ► Chapter 4

Unlicensed, Unregistered and Junk Vehicles

10-4-1	Purpose
10-4-2	Authority
10-4-3	Definitions
10-4-4	Coverage
10-4-5	Application/Permit
10-4-6	Ordinance/Permit Provisions
10-4-7	Penalty Provisions
10-4-8	Severability

Sec. 10-4-1 Purpose.

The purpose of this ordinance is for the Town of Big Bend to regulate by permit and penalty the storing of certain junked and/or unlicensed vehicles in the Town of Big Bend.

Sec. 10-4-2 Authority.

The Town Board of the Town of Big Bend has the specific authority under Sec. 175.25, Wis. Stats., and general authority under its village powers under Sec. 60.22, Wis. Stats., to adopt this ordinance.

Sec. 10-4-3 Definitions.

(a) **Junked vehicle.** Any inoperable, ruined, dismantled, or wrecked vehicle, in whole or in part, including any vehicle in the possession of a motor vehicle salvage dealer for wrecking, processing, scrapping, recycling, or dismantling purposes. For purposes of this ordinance, a motor vehicle is rebuttably presumed to be inoperable if it is not moved for a period of thirty 30 consecutive days. Demonstrating to the Town Board or its representative that the motor vehicle can be moved from its location under its own power conclusively rebuts the presumption.

(b) **Junked vehicle parts.** Parts from a junked vehicle.

(c) **Motor vehicle.** Except when included in the terms "motor vehicle dealer" or "motor vehicle salvage dealer," means a vehicle that was, at the time of its manufacture, self-propelled.

(d) **Motor vehicle dealer.** The meaning given in Sec. 218.0101 (23), Wis. Stats.

(e) **Motor vehicle salvage dealer.** A person who purchases and resells vehicles for wrecking, processing, scrapping, recycling, or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping, or dismantling motor vehicles or selling parts of motor vehicles so processed, including a motor vehicle salvage dealer who sells no vehicles or vehicle parts and whose business is limited to a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel, or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metal scrap for sale for remelting purposes.

(f) **Person.** An individual, corporation, business trust, estate, trust, partnership, joint venture,

association, or any other legal or commercial entity.

(g) **Town.** The Town of Big Bend, Rusk County, Wisconsin.

(h) **Town Board.** The Board of Supervisors for the Town of Big Bend, Rusk County, Wisconsin, and includes designees of the Board authorized to act for the Board.

(i) **Town Clerk.** The clerk of the Town of Big Bend, Rusk County, Wisconsin.

(j) **Unlicensed Vehicle.** Any vehicle that requires registration and/or license to operate in this state and said vehicle does not have a current license and registration.

(k) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported. "Vehicle" includes, but is not limited to, all of the following:

(1) "Aircraft" as defined in Sec. 29.001 (16), Wis. Stats.
(2) "All-terrain vehicles" as defined in Sec. 340.01 (2g), Wis. Stats.
(3) "Antique vehicles" as described in Sec. 341.265, Wis. Stats.
(4) "Automobiles" as defined in Sec. 340.01 (4), Wis. Stats.
(5) "Boats" as defined in Sec. 29.001 (16), Wis. Stats.
(6) "Camping trailers" as defined in Sec. 340.01 (6m), Wis. Stats.
(7) "Farm equipment" as defined in Sec. 100.47 (1), Wis. Stats.
(8) "Farm tractors" as defined in Sec. 340.01 (16), Wis. Stats.
(9) "Hobbyist or homemade vehicles" as defined in Sec. 341.268, Wis. Stats.
(10) "Junk vehicles" as defined in Sec. 340.01 (25j), Wis. Stats.
(11) "Implements of husbandry" as defined in Sec. 340.01 (24), Wis. Stats.
(12) "Manufactured homes" as defined in Sec. 101.91 (2), Wis. Stats.
(13) "Mobile homes" as defined in Sec. 340.01 (29), Wis. Stats.
(14) "Mopeds" as defined in Sec. 340.01 (29m), Wis. Stats.
(15) "Motor bicycles" as defined in Sec. 340.01 (30), Wis. Stats.
(16) "Motor buses" as defined in Sec. 340.01 (31), Wis. Stats.
(17) "Motor homes" as defined in Sec. 340.01 (33m), Wis. Stats.
(18) "Motor trucks" as defined in Sec. 340.01 (34), Wis. Stats.
(19) "Motorcycles" as defined in Sec. 340.01 (32) , Wis. Stats.
(20) "Railroad trains" as defined in Sec. 340.01 (48), Wis. Stats.
(21) "Recreational vehicles" as defined in Sec. 340.01 (48r), Wis. Stats.
(22) "Road machinery" as defined in Sec. 340.01 (52), Wis. Stats.
(23) "Road tractors" as defined in Sec. 340.01 (53), Wis. Stats.
(24) "Salvage vehicles" as defined in Sec. 340.01 (55g), Wis. Stats.
(25) "School buses" as defined in Sec. 340.01 (56), Wis. Stats.
(26) "Semi-trailers" as defined in Sec. 340.01 (57), Wis. Stats.
(27) "Snowmobiles" as defined in Sec. 340.01 (58), Wis. Stats.
(28) "Special interest vehicles" as defined in Sec. 341.266, Wis. Stats.
(29) "Trailers" as defined in Sec. 340.01 (71), Wis. Stats.
(30) "Truck tractors" as defined in Sec. 340.01 (73), Wis. Stats.
(31) Unlicensed demolition motor vehicles and unlicensed racing motor vehicles.
(32) Golf carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles that require no registration or licensure by the State of Wisconsin.

(l) **Wis. Stats.** means the Wisconsin Statutes, including successor provisions to cited statutes.

Sec. 10-4-4 Coverage.

(a) **Permitted Junked or Unlicensed Vehicles.** No person may accumulate, store, or otherwise keep, or allow to be accumulated, stored, or otherwise kept on real estate owned or leased by the person, more than two junked vehicles or junked vehicle parts or unlicensed vehicles outside of any building on any real estate located within the town without obtaining a junked vehicle or unlicensed vehicle permit from the Town Board.

(b) **Parking/Storage of Junked Vehicles.** No person may accumulate, store, or otherwise keep any junked vehicle or junked vehicle parts within 500 feet of the center line of any town highway in the town, or within 750 feet of the center line of any county trunk, state trunk, or federal highway without obtaining a junked vehicle permit from the town Board.

(c) **Permit Fees.** The annual fee for either a junked vehicle or an unlicensed vehicle permit this permit shall be in accordance with the Town of Big Bend's current fee schedule. The term of the permit shall be from the date of the year of issue to June 30 of the next year. The permit shall be issued by the Town Board prior to any person accumulating or storing any junked vehicle or junked vehicle parts in the town subject to this ordinance.

Sec. 10-4-5 Application/Permit.

The application and permit shall designate the legal premises in the town subject to the permit. The permit may be amended without charge if the permittee changes premises in the town. However, the permit is not transferable from one person to another. The application and permit shall contain the following:

A. Junked Vehicle or Junked Vehicle Parts
   (a) The name of the applicant, any agent of applicant, and the owner of the premises, if different from the applicant.
   (b) The address of the premises.
   (c) The premises' telephone number, if any, and the residential telephone number of the applicant if different from the premises' telephone number, the business and residential telephone number of any agent, and the business and residential telephone number of the owner of the premises, if different from the applicant.
   (d) The age of the applicant and of the owner of the premises, if different from the applicant.
   (e) The legal description of the premises.
   (f) The manner, if any, of storing and transporting junked vehicles and junked vehicle parts.
   (g) The projected number of junked vehicles or junked vehicle parts projected to be stored, accumulated, or otherwise kept on the premises and the projected number of years of accumulation, storage, and removal of the junked vehicles and junked vehicle parts.
   (h) Any other items requested by the Town Board in writing.

B. Unlicensed Vehicles
   1) The name of the applicant, any agent of applicant, and the owner of the premises, if different from the applicant.
   2) The address of the premises.
   3) The premises' telephone number, if any, and the residential telephone number of the applicant if

different from the premises' telephone number, the business and residential telephone number of any agent, and the business and residential telephone number of the owner of the premises, if different from the applicant.

4) The age of the applicant and of the owner of the premises, if different from the applicant.
5) The legal description of the premises.
6) Any other items requested by the Town Board in writing.

Sec. 10-4-6 Ordinance/Permit Provisions.

A Vehicles, Vehicle Parts and Unlicensed Vehicles

1) Persons subject to this ordinance shall comply with Sec. 84.31 and 175.25, Wis. Stats.
2) Each permit issued by the Town Board shall include conditions regarding all of the following, which shall be established on a case-by-case basis by the Town Board acting in its discretion:
    (a) Installation and maintenance of fences on the premises.
    (b) Provision and maintenance of adequate fire safety equipment on the premises.
    (c) Removal or draining of all vehicle tanks and engines on the premises.
    (d) Installation and maintenance of adequate sanitary facilities on the premises.
    (e) Installation and maintenance of adequate and necessary physical structures and equipment and provision of necessary personnel.
    (f) Rules and safeguards to prevent public nuisances and to protect the public health and safety of persons residing near the premises or persons entering the premises, including public nuisances at the premises associated with noise, dust, odors, fires, explosions, water pollution, air pollution, and erosion.
    (g) Prohibition of open fires or open burning of solid waste at the premises.
    (h) Prohibition of any hazardous waste being stored, kept, or disposed of at the premises.
    (i) Installation and maintenance of adequate landscaping upon and surrounding the premises.
    (j) Provision and maintenance of adequate security and operational personnel to prevent trespassing onto the premises.
    (k) The number of vehicles and vehicle parts authorized to be kept on the premises.
    (l) Installation and maintenance of adequate physical structures and operational controls to prevent trespassing, littering, and private nuisances on private and public lands adjacent to the premises.
    (m) Any other condition determined by the Town Board to be necessary and appropriate.
3) The applicant and any other person subject to this ordinance are subject to all of the following:
    (a) No person shall be issued or reissued a permit in the town until the appropriate application fee has been paid to the Town Clerk.
    (b) No person shall be issued or reissued a permit in the town who has failed to

properly and fully complete and submit to the Town Clerk the application form as developed and provided by the town.

(c) No person shall be issued or reissued a permit, and a permittee may have the permit revoked after a public hearing by the Town Board, if the applicant for the permit or permittee has done any of the following:
   i. Violated any condition stated in the permit.
   ii. Failed to comply, as determined by the Town Board, with any town or county zoning ordinances.
   iii. Failed to allow physical access to the premises by the Town Board or its designee for inspection purposes upon 48 hours' notice to the applicant or permittee.

Sec. 10-4-7 Penalty Provisions.

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture as per Title 1-1-6 of this Code of Ordinances and/or the Town Fee Schedule plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

Sec. 10-4-8 Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Title 10 ► Chapter 5

Exhibition Driving

10-5-1 Purpose
10-5-2 Authority
10-5-3 Definitions
10-5-4 Coverage
10-5-5 Penalty Provisions
10-5-6 Severability

Sec. 10-5-1 Purpose.

The purpose of this ordinance is for the Town of Big Bend to regulate by penalty the Exhibition driving by excessive or unnecessary acceleration damage to the roads/highway in the Town of Big Bend.

Sec. 10-5-2 Authority.

The Town Board of the Town of Big Bend has the specific authority under Sec. Wis. Stat. § 349.06, and general authority under its village powers under Sec. 60.22, Wis. Stats., to adopt this ordinance.

Sec. 10-5-3 Definitions.

(m) **Highway** WI Stat 340.01(22) Highway means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools, as defined in s. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors, but does not include private roads or driveways as defined in sub. (46).

(n) **Motor vehicle.** Except when included in the terms "motor vehicle", means a vehicle that was, at the time of its manufacture, self-propelled.

(o) **Person.** An individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

(p) **Town.** The Town of Big Bend, Rusk County, Wisconsin.

(q) **Town board.** The board of supervisors for the Town of Big Bend, Rusk County, Wisconsin, and includes designees of the board authorized to act for the board.

(r) **Town clerk.** The clerk of the Town of Big Bend, Rusk County, Wisconsin.

(s) **Unlicensed Vehicle.** Any vehicle that requires registration and/or license to operate in this state and said vehicle does not have a current license and registration.

(t) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported. "Vehicle" includes, but is not limited to, all of the following:

(1) "All-terrain vehicles" as defined in Sec. 340.01 (2g), Wis. Stats.

(2) "Antique vehicles" as described in Sec. 341.265, Wis. Stats.

(3) "Automobiles" as defined in Sec. 340.01 (4), Wis. Stats.

(4) "Camping trailers" as defined in Sec. 340.01 (6m), Wis. Stats.
(5) "Farm equipment" as defined in Sec. 100.47 (1), Wis. Stats.
(6) "Farm tractors" as defined in Sec. 340.01 (16), Wis. Stats.
(7) "Hobbyist or homemade vehicles" as defined in Sec. 341.268, Wis. Stats.
(8) "Implements of husbandry" as defined in Sec. 340.01 (24), Wis. Stats.
(9) "Mobile homes" as defined in Sec. 340.01 (29), Wis. Stats.
(10) "Mopeds" as defined in Sec. 340.01 (29m), Wis. Stats.
(11) "Motor bicycles" as defined in Sec. 340.01 (30), Wis. Stats.
(12) "Motor buses" as defined in Sec. 340.01 (31), Wis. Stats.
(13) "Motor homes" as defined in Sec. 340.01 (33m), Wis. Stats.
(14) "Motor trucks" as defined in Sec. 340.01 (34), Wis. Stats.
(15) "Motorcycles" as defined in Sec. 340.01 (32) , Wis. Stats.
(16) "Recreational vehicles" as defined in Sec. 340.01 (48r), Wis. Stats.
(17) "Road machinery" as defined in Sec. 340.01 (52), Wis. Stats.
(18) "Road tractors" as defined in Sec. 340.01 (53), Wis. Stats.
(19) "Salvage vehicles" as defined in Sec. 340.01 (55g), Wis. Stats.
(20) "School buses" as defined in Sec. 340.01 (56), Wis. Stats.
(21) "Semi-trailers" as defined in Sec. 340.01 (57), Wis. Stats.
(22) "Snowmobiles" as defined in Sec. 340.01 (58), Wis. Stats.
(23) "Special interest vehicles" as defined in Sec. 341.266, Wis. Stats.
(24) "Trailers" as defined in Sec. 340.01 (71), Wis. Stats.
(25) "Truck tractors" as defined in Sec. 340.01 (73), Wis. Stats.
(26) Unlicensed demolition motor vehicles and unlicensed racing motor vehicles.
(27) Golf carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles that require no registration or licensure by the State of Wisconsin.

(u) **Wis. Stats.** means the Wisconsin Statutes, including successor provisions to cited statutes.

Sec. 10-5-4 Coverage.

In this ordinance, road damage coverage refers to a requirement for individuals or companies to pay for any harm they cause to local streets and other public infrastructure. This is common in towns and municipalities that want to protect their investment in public roads/highway and minimize the use of taxpayer funds for unnecessary repairs

(d) No driver of any vehicle shall cause, by excessive or unnecessary acceleration, the tires of such vehicle to spin and emit loud noises, or to unnecessarily throw stones, gravel or other material, nor shall any driver cause to be made by excessive and unnecessary acceleration any loud noise, such as would disturb the public peace, nor shall any driver otherwise operate a motor vehicle within the Town of Big Bend in a manner that would disturb the public peace or endanger the safety of other motorists, pedestrians, or property.

(e) No driver of any vehicle shall cause, by excessive or unnecessary acceleration, damage to any Town roads/highway in the Town of Big Bend. Damage includes, but is not limited to, ruts in roads/highway, damage to shoulders or ditches or erosion of blacktop surfaces.

Sec. 10-5-5 Penalty Provisions.

A. Town Board may impose WI Stat 86.02; Injury to road/highway - Any person who shall injure any road/highway by obstructing or diverting any creek or watercourse or sluiceway, or by dragging logs or timber thereon, or by any other act, shall be liable in treble damages, to be recovered by the political division chargeable with the maintenance of road/highway injured, and the amount recovered shall be credited to the road/highway maintenance fund.
B. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture as per the Town Fee Schedule plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

Sec. 10-5-6 Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Title 11

Offenses and Nuisances

Chapter 1	**State Statutes Adopted**
Chapter 2	**Offenses Against Property**
Chapter 3	**Public Nuisances**

Title 11 ► Chapter 1

State Statutes Adopted

11-1-1 Offenses Against State Laws Subject to Forfeiture

Sec. 11-1-1 Offenses Against State Laws Subject to Forfeiture.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town of Big Bend provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

48.17	Jurisdiction — Civil Law and Ordinance Violations
48.343	Dispositions — Civil Law and Ordinance Violations
48.344	Dispositions — Intoxicating Liquor and Beer Violations
48.345	Disposition of Child Adjudged in Need of Protection
48.983	Use of Tobacco Products
50.58	Careless Smoking
118.07	Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records
118.163	Truancy
134.65	Cigarette and Tobacco Products Retailer License
134.66	Restrictions on Sale or Gift of Cigarettes or Tobacco Products
167.10	Fireworks Regulated
175.25	Illegal Storage of Junked Vehicles
939.05(2)(b)	Aiding and Abetting
939.22	Words and Phrases Defined

940.19(1)	Battery
940.291	Failure of a Police Officer to Render Aid
941.01	Negligent Operation of a Vehicle
941.10	Negligent Handling of Burning Materials
941.12(2),(3)	Interfering With or Failing to Assist in Firefighting
941.13	False Alarms and Interference with Firefighting
941.20(1)	Reckless Use of Weapon
941.23	Carrying Concealed Weapon
941.235	Carrying a Firearm in a Public Building
941.35	Emergency Telephone Calls
941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1),(2)	Obstructing Emergency or Rescue Personnel
942.05	Opening Letters
943.01(1)	Criminal Damage to Property
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Trespass to Dwellings
943.145	Criminal Trespass to a Medical Facility
943.15	Entry Into Locked Site
943.20(3)(a)	Theft of Property
943.21(3)(a)	Fraud on Innkeeper
943.22	Cheating Tokens
943.23(4),(5)	Operating Vehicle Without Owner's Consent
943.34(1)(a)	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38(3)	Forgery
943.41	Credit Card Crimes
943.50(4)(a)	Retail Theft
943.55	Removal of a Shopping Cart
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
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Title 11 ► Chapter 2

Offenses Against Property

11-2-1 Destruction of Property Prohibited
11-2-2 Littering Prohibited
11-2-3 Abandoned Refrigerators Prohibited
11-2-4 Cemetery Regulation
11-2-5 Penalties

Sec. 11-2-1 Destruction of Property Prohibited.

(a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Town of Big Bend and belonging to the Town or its departments.

(b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars ($2,500.00).

Sec. 11-2-2 Littering Prohibited.

(a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks, public right-of-ways, or other property of the Town, or the surface of any body of water within the Town.

(b) **Litter From Conduct of Commercial Enterprise.**

(1) ***Scope.*** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

(2) ***Cleanup of Litter.*** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twenty-four (24) hours of the time the same is deposited or immediately if such litter or debris presents a traffic or safety hazard. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3) ***Litter Picked Up at Litterer's Expense.*** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the

time specified, the Town shall arrange to have the same picked up by Town crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Town Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Dumping of Refuse and Grass Along Roads.** Except for temporary placement up to six (6) hours, no person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley, public right-of-way or highway.

(d) **Depositing of Materials Prohibited.** Except as provided in Subsection (c), it shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Town Board, or its designee, pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(e) **Handbills.**

(1) ***Scattering Prohibited.*** It shall be unlawful to deliver any handbills or advertising material to any premises in the Town except by being handed to the recipient, placed on the porch, stoop or entrance way of the building, placed in newspaper boxes, or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2) ***Papers in Public Places Prohibited.*** It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

(3) ***Advertisements Upon Public Property.*** No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground . This Section shall not apply to the posting of notices required by law.

Sec. 11-2-3 Abandoned Refrigerators Prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

Sec. 11-2-4 Cemetery Regulations.

(a) **Purpose and Definition.** In order to protect cemetery areas within the Town from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Town of Big Bend.

(b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.

(c) **Specific Regulations.**

(1) ***Disturbing Cemetery Property.*** No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property, except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.

(2) ***Protection of Cemetery Property.*** No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.

(3) ***Motor Vehicles.*** Motor vehicles, including snowmobiles and all-terrain vehicles, are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.

(4) ***Speed Limit.*** No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.

(5) ***Parking.*** No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.

(6) ***Littering Prohibited.*** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.

(7) ***Pets.*** Pets, including animals of any species, are prohibited in any cemetery without

the cemetery owner's consent.

(8) ***Sound Devices.*** No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

(9) ***Authorized Notices.*** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except under these regulations. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.

(10) ***Loitering Prohibited.*** No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.

(11) ***Alcoholic Beverages Prohibited.*** No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Town, without the consent of the cemetery owner.

(12) ***Play Vehicles Prohibited.*** No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.

(13) ***Presence After Hours Prohibited.*** No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

Sec. 11-2-5 Penalties.

In addition to the general penalty of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 11-2-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent law enforcement officers from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

Title 11 ► Chapter 3

Public Nuisances

11-3-1	Public Nuisances Prohibited
11-3-2	Public Nuisances Defined
11-3-3	Public Nuisances Affecting Health
11-3-4	Public Nuisances Offending Morals and Decency
11-3-5	Public Nuisances Affecting Peace and Safety
11-3-6	Abatement of Public Nuisances
11-3-7	Cost of Abatement

Sec. 11-3-1 Public Nuisances Prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Big Bend, Rusk County, Wisconsin. The Town adopts Wisconsin Chapter 823 by reference, and may enforce an action against a public nuisance under this ordinance, state law, or both. Any conflict between the provisions of this ordinance and state law shall be resolved in favor of enforcing state law standards.

Sec. 11-3-2 Public Nuisance Defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

(b) In any way render the public insecure in life or in the use of property;

(c) Greatly offend the public morals or decency;

(d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(e) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

Sec. 11-3-3 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 Section 11-3-2:

(a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

(c) **Breeding Places for Vermin, Etc.** Accumulations of decayed animal or vegetable matter (other than composting sites), trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires or any material whatsoever in which flies, mosquitoes, disease- carrying insects, rats or other vermin may breed.

(d) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.

(e) **Garbage Cans.** Garbage cans which are not fly-tight.

(f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.

(g) **Water Pollution.** The pollution of any public or private well or cistern, stream, lake, canal or other body of water or ground water by sewage, creamery or other wastes or substances.

(h) **Noxious Odors, Etc.** Any use of property, substances or things within the Town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town, other than odors produced through the operation of farming practices.

(i) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

(j) **Animals at Large.** All animals running at large (also refer to Title 7, Chapter 1 for further animal regulations).

(k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.

(1) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(m) **Foul Odors.** 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 to an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town. This definition shall not apply to odors produced through the operation of farming practices.

(n) **Abandoned Wells.** All abandoned wells not securely covered or secured from public use.

(o) **Abandoned Equipment.** Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, or debris.

Sec. 11-3-4 Public Nuisances Offending Morals and Decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to

exclude other nuisances offending public morals and decency coming within the definition of Section 11-3-2:

(a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(b) **Gambling Devices.** All gambling devices and slot machines, other than state-authorized programs.

(c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the Town.

(d) **Continuous Violation of Town Ordinances.** Any place or premises within the Town where Town Ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Town.

Sec. 11-3-5 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 definition of Section 11-3-2:

(a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the Town relating to materials and manner of construction of buildings and structures within the Town.

(c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.

(d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) **Tree Limbs.** All limbs of trees which project over a public sidewalk or ditch area of the right-of-way less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

(f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the Town.

(h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

(k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks 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, or which do not conform to the permit.

(1) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.

(m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(n) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the Town or laws of the State relating to the storage of flammable liquids.

(o) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

(p) **Appliances and Junk.** Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery 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 (except when such items are properly housed and out of public view).

(q) **Unauthorized Street Use.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

Sec. 11-3-6 Abatement of Public Nuisances.

(a) **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 shall inspect or cause to be inspected the premises complained of.

(b) **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 nuisance or the owner or occupant of the premises where such nuisance exists. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises 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.

(c) **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.

(d) **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 Rusk County.

(e) **Other Methods Not Excluded.** Nothing in this Chapter 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.

Sec. 11-3-7 Cost of Abatement.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

Title 12

Navigable Waters

Chapter 1 Regulation of Navigable Waters

Title 12 ► Chapter 1

Regulation of Navigable Waters

12-1-1 Towns of Rusk and Big Bend Joint Boating Ordinance

Sec. 12-1-1 Towns of Rusk and Big Bend Joint Boating Ordinance.

(a) **Applicability and Enforcement.**

(1) The provisions of this Section shall apply to the waters of the Island Lake Chain.

(2) This Chapter shall be enforced by the officers of the water safety patrol of Rusk County.

(b) **Intent.** The intent of this Section is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interests, and the capability of the water resources.

(c) **State Boating and Safety Laws Adopted.** State boating laws as found in Sec. 30.50 to 30.71, Wis. Stats., are adopted by reference. If any provision of this ordinance is found to not comport with Sec. 30.77, Wis. Stat., the applicable state statute section shall apply.

(d) **No Wake Areas.**

(1) No person shall operate a boat in the following area at a speed faster than "Slow-No Wake", as defined in Sec. 30.50(12), Wis. Stats., as "that speed at which a boat moves as slowly as possible while still maintaining steerage control". Said "No Wake" areas are:

a. In the Town of Rusk in the channel between Clear Lake and Chain Lake located in the SE 1/4, NE 1/4, T33N, R9W, Section 36.

b. In the Town of Big Bend in the channel between McCann Lake and Chain Lake in the NW 1/4 of the NW 1/4, T33N, R8W, Section 31.

(2) This area will be indicated by buoys placed at each end of the restricted area.

(e) **Markers and Navigational Aids.** The Island Chains Property Association shall place and maintain suitable markers and signs in such waters as shall be appropriate to advise the public of the provisions of this Chapter.

(f) **Penalties.** Wisconsin state boating penalties as found in Sec. 30.80, Wis. Stats, are adopted by reference.

TITLE 13
Zoning

Chapter 1 Authority
Chapter 2 Definitions
Chapter 3 Districts
Chapter 4 Comprehensive Plan
Chapter 5 District Regulations
Chapter 6 Signs
Chapter 7 Special Uses
Chapter 8 Adult Bookstore, Adult Cabaret, Adult Theater
Chapter 9 Tourist Rooming House
Chapter 10 Conditional Uses
Chapter 11 Zoning Districts
Chapter 12 Shoreland/Wetland District
Chapter 13 Planned Unit Development District
Chapter 14 Dimensional Requirements
Chapter 15 Nonconforming Uses
Chapter 16 Administration
Chapter 17 Public or Private Campgrounds
Chapter 18 Oversight – Variance – Enforcement
Chapter 19 Solar
Chapter 20 Boathouse Construction

Title 13 ► Chapter 1

Authority

13-1-1 Purposes Listed in WI Stats
13-1-2 Interpretations
13-1-3 Shoreland Provisions

State Law Reference – Zoning authority if exercising village powers, WI Stats 60.62; required notice on certain approvals, WI Stats 60.625; Town construction site erosion control and storm water management zoning, WI Stats 60.627, community and other living arrangements, WI Stats 60.63; environmental protection, interstate hazard, liquid pipelines WI Stats 60.635; historic preservation, WI Stats 60.64; Board of Adjustment, WI Stats 60.65; zoning filing fees, WI Stats 59.694; zoning filing fees, WI Stats 59.69; Planning and Zoning, WI Stats 60.61; General zoning authority, WI Stats 60.66; Town park commission WI Stats 60.66.

Sec. 13-1-1 - Purpose

The Town Board does ordain and enact this zoning code, regulating and restricting the location, construction and use of buildings, structures and the use of land in the unincorporated portions of the Town and, for such purposes, dividing the Town into districts.

Sec. 13-1-2 - Interpretation.

The provisions of this title shall be held to be minimum requirements, adopted for the promotion and protection of public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted regulations, ordinances or private covenants, the most restrictive, or that imposing the higher standards, shall govern.

Sec. 13-1-3 - Shoreland provisions.

The shoreland provisions of this chapter shall not require approval or be subject to disapproval by the Town Board. All applicable Town permits are required.

Title 13 ► Chapter 2

Definitions

13-2-1 Definitions

Sec. 13-2-1 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All distances, unless otherwise specified, shall be measured horizontally.

A-Zones means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Accessory structure or use means a subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

Adult bookstore means an establishment having as a predominant portion of its stock in trade books, magazines and other periodicals, or videocassettes, DVDs, or other videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein.

Adult cabaret.

(1) The term "adult cabaret" means a nightclub, bar, theater, restaurant or similar establishment which features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, videocassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

(2) The term "adult cabaret" does not include theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

Adult motion picture theater means an enclosed building which is significantly or substantially used for presenting motion picture films, videocassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as described herein) for observation by patrons therein.

AH zone. See "Area of shallow flooding".

Airport means an area of land devoted or intended to be devoted to landing and takeoff of all aircraft, whether fixed wing or not, and whether private or commercial. The term "airport" includes such nomenclature as landing strip or field, airstrip, landing area, etc.

Allowed uses means land uses and activities that are totally permitted or allowed and that do not require a zoning permit.

Alteration means an enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

AO zone. See "Area of shallow flooding".

Applicant means any person, firm, or corporation or any agent thereof seeking to build, construct, excavate, grade, install, or use the land in any manner that would require a permit as defined in this chapter.

Authorized use means those activities that involve a use of the land and that require a permit to be issued.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Bed and breakfast. See *Boardinghouse.*

Boardinghouse means any owner-occupied dwelling where lodging and meals are furnished for compensation for three or more persons not members of the same family.

Boathouse means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.

Building means any structure use, designed or intended for the protection, shelter or roofed enclosure of persons, animals or property.

Building envelope means and includes all fully enclosed areas of a principal structure and specifically excludes screened porches, decks, patios and similar construction.

Building, height of, means the distance from the lowest point of final grade where the structure intersects with the ground and the highest point of the structure.

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

Campground means a parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance means a document signed by a plumber, soil tester, zoning official, or other qualified individual that verifies whether septic, soils, setbacks, or other aspects of any particular lot and its inherent development are in compliance with current administrative codes or zoning ordinances.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Comparable size means the same square footage as the existing footprint.

Conditional use means a use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the Zoning Ordinance Committee or Town Board.

Town zoning agency means that committee or commission created or designated by the Town Board under Wis. Stats. § 59.69 to act in all matters pertaining to Town planning and zoning.

Crawlway or *crawlspace* means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities.

Curtilage means the area encompassing the grounds and buildings immediately surrounding a home, school, church, nursery, day care center or park that is used in the daily activities of domestic life. A

garage, barn, smokehouse, chicken house and garden are curtilage if their locations are reasonably near to the home.

Deck means a structure which is wider than six feet, has a platform and is suspended over water or land by either posts, pilings, guidelines, guidewires or similar supports.

Department means the state department of natural resources (DNR).

Development means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

District means a specific area designated with reference by this chapter and the official zoning maps within which the regulations governing the use and erection of structures and the use of premises and land are uniformly applied.

Dock means a structure which is less than six feet wide, has a platform and is suspended over the water by either posts, pilings, guidelines, guidewires or similar supports.

Documented violations means an operational rule that has been documented by Rusk County Zoning staff or Town Zoning Ordinance Committee as not being followed. This could include reports from law enforcement officials.

Drainage system means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Dryland access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Dwelling means any building designed and used exclusively as the living quarters for one or more families. This includes site-constructed and manufactured homes designed for this purpose. This does not include mobile homes.

Dwelling, multifamily, means a dwelling or group of dwellings on one plot containing separate living units for two or more families, but which may have joint services or facilities or both.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family.

Easement means authorization by a property owner for the use of his land by another person for a specific written recorded purpose.

Encroachment means any fill, structure, equipment, use or development in the floodway.

Enlargement of waterways means to construct, dredge, or do any development of a canal, channel, ditch, lagoon, pond, lake, or similar waterway. Enlargement of waterways require permits from the department of natural resources as defined in Wis. Stats. § 30.19.

Environmental damage means the harming of any wildlife or their habitat, including, but not limited to, fish, bird, animal, or plant life, or the degradation of the air, land, and waters within the state. While the definition of environmental damage is necessarily general and must be subjectively applied, it should be applied liberally in each case to protect the environment of the Town.

Environmental pollution means the contaminating or rendering unclean or impure air, land, or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life as defined by Wis. Stats. § 285.01.

Essential services means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals,

sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

Exclusive Ag means lands that meet all the requirements of the state with regard to the Farmland Preservation Program.

Expanded home occupation means a home occupation that may involve persons other than the resident family and such occupation may be carried on other than within the confines of the home.

Exploration means the on-site geologic examination of conditions of the surface of the site by drilling or excavating for purposes of searching for or defining the extent and nature of deposits of metallic or nonmetallic minerals and includes such associated activities as clearing and preparing sites or constructing roads.

Family means one or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Farm means an area of land where animals, produce, plants, or bees may be raised, cultivated, or maintained for sale or off-premises consumption and includes places where animals that may commonly be associated with farming are maintained only for pleasure.

Farming, generally, means the production of field or truck crops or the raising of livestock and livestock products for commercial gain.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Filling means the placement or depositing of any material such as dirt, stumps, rocks, gravel, sawdust, sod, debris or like substances. See Wis. Stats. § 30.12 for required state permits.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

(1) The overflow or rise of inland waters.

(2) The rapid accumulation or runoff of surface waters from any source.

(3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore.

(4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature or by some similarly unusual event.

Flood frequency means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percentage chance of occurring in any given year.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance rate maps that accompany the flood insurance study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood profile means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see *Freeboard.*

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain means the land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in Wis. Admin. Code Ch. NR 116.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Floor area means the area within the outside lines of the exterior walls of a building at the first floor level or basement wall; provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics and garages.

Footprint of building or *structure footprint* means the area within the outermost perimeter of a structure on its main floor, including attached or immediately adjacent patios, decks, screened porches and similar construction. Note: For the purpose of replacing or reconstructing a nonconforming building, the footprint shall be replaced with the same types of use (i.e. deck with deck, eave with eave).

Forest industries means the cutting and storing of forest products, the operation of portable sawmills, the production of maple syrup and sugar, and other uses related to forests.

Freeboard means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Fur farm means any property comprising land or buildings or both, used for the purpose of raising or harboring furbearing animals including those defined in Wis. Stats. § 29.001 and also other furbearing animals, if any, whether the animals are kept for breeding, slaughtering or pelting purposes.

Garage, private, means an accessory building or accessory portion used, or intended to be used, for the storage of private motor vehicles, and having a capacity of not more than three automobiles. The term "private garage" also includes carports.

Garage, public, means a building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as "gasoline stations" or "service stations."

Gasoline service station means any area of land, including any structure thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil, or other lubricating substances, or motor vehicle accessories, and which may include facilities used or designed to be used for polishing, repairing, greasing, washing, spraying, dry cleaning, or otherwise maintaining such vehicles.

Grading means filling over or removing topsoil or a combination of both. See Wis. Stats. § 30.19 for required state permits.

Gravel pit. See *Quarry.*

Government Institutional means tract, or interest therein, in which the surface estate is owned and administered by the Town of Big Bend.

Habitable structure means any structure or portion thereof used or designed for human habitation.

Hard armor stabilization means the use of rock, concrete, block, wood and similar materials in controlling erosion.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. Ch. 985. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Highway means a public or private thoroughfare which affords a primary means of access to abutting property.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

Home occupation means a gainful occupation conducted by a member of the family within his place of residence, where the space used is incidental to residential use and no article is sold or offered for sale, except such as produced by such home occupation.

Hospital, unless otherwise specified, means and includes sanitarium, sanitorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of human ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, decks, walkways, driveways, parking lots and streets unless specifically designed, constructed and maintained to be pervious. Roadways or sidewalks as defined in § 340.01, Wis. Adm. Code, are not considered impervious surfaces. *Increase in regional flood height* means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Installation means any campground, resort, recreational vehicle park, trailer camp or mobile home park or any combination thereof, whether designed for year-round or seasonal or permanent or temporary use or

any combination, located on public or private property, and whether fees are charged for the use thereof or not.

Junkyard. See *Salvage yard.*

Kennel means premises used for the harboring of more than three dogs or other animals which are more than six months old in age.

Land use means any nonstructural use made of unimproved or improved real estate. Also see *Development.*

Land use permit means the document that must be issued by the zoning department and that grants the applicant permission to engage in those types of activities on any given parcel or parcels of land and for which this chapter specifically states that such activities require a permit. (It is not a building permit per se; however, building is an example of a land use activity that requires a zoning or land use permit.)

Local contact person means a person who is able to respond to the facility within 15 minutes.

Lot means a parcel of land occupied or capable of being occupied by one primary building and its accessory buildings or other uses customarily incidental to it, including such open spaces as are required by this chapter, pertaining to subdivision control, and all applicable state statutes. Adjoining lands of common ownership shall be considered a contiguous parcel even if divided by a public or private road, easement, or navigable rivers or streams.

Lot area means the total area in a horizontal plane within the peripheral boundaries of a lot. No land included in a road (public or private) or street, highway or railroad right-of-way may be included when computing lot area.

Lot depth means a mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

Lot length. Lot length is measured from the right-of-way of any highway, road, or private easement to the opposite end of said lot and shall not exceed six times its width.

Lot lines means any line dividing one lot from another.

Lot width. The required minimum width of a lot shall be measured as the shortest distance between the lot side lines at or greater than the necessary setback distance for said lot. To the point at which the lot's minimum area and width requirement has been met no additional area of any particular lot in question need meet the minimum width requirement.

Lowest adjacent grade means elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

Maintenance means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Maintenance and repairs means and includes, but is not limited to, replacement or installation of the same size windows and doors, skylights, vents, siding, insulation, shutters, gutters, flooring and shingles, or replacing or repairing internal walls or floors of a foundation. Maintenance and repairs do not include external alterations and additions, internal improvements or replacement of existing structures.

Major recreational equipment means and includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, snowmobiles and snowmobile trailers, and the like.

Manufactured home means a structure constructed after June 15, 1976, that is transportable in one or more sections; which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected 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 facilities.

Mine means a place where an excavation is made to obtain ores, precious stones, minerals, and other elements of value that may or may not require further refinement. For the purpose of this chapter, excavations for the removal of substances such as gravel, sand, and dirt, that require extraction by such means are defined as quarries.

Mobile/manufactured home.

(1) The term "mobile home" means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway and equipped and used or intended to be used primarily for human habitation, with walls of rigid uncollapsible construction; and which has an overall length in excess of 45 feet.

(2) The term "manufactured home" means a structure constructed after 1976 which is transportable in one or more sections; which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected 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 a permanent foundation when connected to the required facilities.

Mobile/manufactured home park means any lot on which three or more mobile/manufactured homes are parked for the purpose of year-round and seasonal habitation and including any associated service, storage, recreation, and other community service facilities designed for the exclusive use of park occupants.

Mobile/manufactured home park or subdivision means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within this definition.

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) means a modification of the duplicate effective model or corrected effective model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

Motel or *hotel* means a building or group of buildings containing rooms which are offered for compensation and the temporary accommodation of transients, and where there is no permanent occupancy of any unit, except by the owner or his agent or employees.

NAVD or *North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.

Navigable waters means all natural inland lakes within the Town of Big Bend and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this Town.

(1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and

(2) Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body. Nonconforming building or structure means any existing building or structure which existed lawfully before the current zoning ordinances were enacted or amended, but does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such structure is located.

New construction, for floodplain management purposes, means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. *NGVD* or *National Geodetic Vertical Datum* means elevations referenced to mean sea level datum, 1929 adjustment.

Nonconforming building or structure means any existing building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such structure is located.

Nonconforming use means any use of land, buildings or structures which existed lawfully before the current zoning ordinances were enacted or amended, but does not comply with all of the regulations of this chapter or any amendments thereto governing said use for the zoning district in which such use is located.

Normal high-water elevation means the line where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Nuisance means a use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance or inconvenience.

Nursery means any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

Obstruction to flow means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this chapter, which has been approved by the department and FEMA.

On-site soils evaluation means when the zoning administrator or other qualified representative from the zoning office, at the request of the soil tester, plumber, or other applicant, will physically inspect the soils during daylight hours in any location within the Town. The inspection is not a soil test which must be done by a certified soil tester. It is to aid the property owner, soil tester, plumber, developer, realtor, or whomever in determining what type of sanitary waste disposal system is appropriate for their particular site and situation.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Outlot means parcel of land, other than a lot or block, so designated on the plat, where structures cannot meet required zoning setbacks and is a nonconforming lot according to current lot size requirements.

Parcel means a description of land that may or may not be within a recorded plat. A parcel can be a single platted lot, government lot, quarter section, or any other defined portion of land.

Permitted use means that use of the land or structures which does not require any variances, public hearings, Town Board, or zoning committee approvals, and which may be granted a permit by the zoning administrator, once the appropriate fees and applications have been properly completed, signed by the applicant, and submitted to the zoning office.

Pier. See *Dock.*

Planned unit development means a type of zoning district that has specific requirements with regard to lot sizes, total land area, number of dwellings and accessory buildings per lot, and other attributes.

POWTS means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the state department of commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

Practicable alternatives means available and capable of being implemented after taking into consideration cost, available technology and logistics in light of overall project purposes.

Preconstruction site evaluation means when the zoning administrator or other qualified representative from the zoning office, at the request of the applicant, will physically inspect the property with regard to setbacks and other building or construction regulations that are within the jurisdiction of the Town zoning department.

Previously developed land means any land that includes a legally placed principal structure.

Principal structure means a non-portable structure which is designed for independent human habitation and includes sanitary and/or food preparation facilities whether such structure is attached to another structure(s) or stands alone. If more than one structure that meets this definition exists on a single lot, the smaller structure(s) shall be considered accessory.

Principal use, for any given parcel of land, means that use of the land or structures which is the primary or main use as distinguished from a customary or accessory use.

Private sewage system means a sewage treatment and disposal system serving a single structure with a septic tank and a soil absorption field located on the same parcel. This term also means an alternative sewage system approved by the state department of commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

Public utilities means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Quarry means an open excavation in the earth for removing stone, sand, gravel, dirt, rocks, or any other substance to be used in the construction of roads, driveways, landscaping, or building.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have generally occurred in the state and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

Restaurant means a space or business establishment within a suitable building, provided with sanitary and proper kitchen and kitchen equipment approved by the state board of health, and a dining room of related capacity, having employees for preparing, cooking, and serving comestible food.

Restoration means the act of restoring the land to a usable condition upon completing, either wholly or in part, that construction which has made said land unsuitable to normal forestry, agricultural, or residential type use.

Roadway setback means not less than 30 feet from the road right-of-way line.

Salvage yard means any area, with or without buildings or structures, where significant amounts of salvageable materials (including secondhand items) are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. This definition also includes auto salvage yards, junkyards and other like and similar uses. Buildings or structures that are part of an establishment that is in the business of buying and selling such materials are required to meet the requirements of this chapter. Four or more inoperative, unlicensed or dismantled vehicles, farm machinery, construction, or other types of equipment shall constitute a salvage yard.

Salvageable material means those products or materials whose primary usefulness has changed or expired and are being stored or retained for whatever reason. Salvageable materials include, but are not limited to, scrap iron and other metals, lumber and other construction materials, paper, rags, appliances, rubber tires, or other rubber products, bottles glass, plastics, machines or machine parts, motor vehicles or equipment and other similar related materials.

Screening means a means of obscuring from view, by use of sight-obscuring fencing, tree planting, earthen berm, or other acceptable means whereby the contents are obscured from sight from any road, watercourse or other public right-of-way.

Self-contained recreational equipment/vehicle means a recreational vehicle which can operate independent of connections to sewer, water, and electric systems. Water storage and sewage holding tanks are located within the vehicle.

Setback means the minimum horizontal distance, which is called a setback line, that is established parallel to rights-of-way, centerlines, lot lines, or water bodies for the purpose of defining limits within which structures, buildings, or other uses must be constructed, maintained or confined.

Shooting range means an area designed and constructed for the discharge of firearms that is open for club members or public use, excluding individually owned and used target and archery ranges.

Shoreland setback area means the area on a parcel that includes the minimum shoreline setback distance and the area waterward to the OHWM.

Shoreland/wetland district means the zoning district, created as a part of the shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this chapter.

Shorelands means lands within the following distances from the ordinary high-water mark of navigable waters:

(1) 1,000 feet from a lake, pond or flowage; and

(2) 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Sign means any structure or natural object or part thereof or device attached thereto or printed or represented thereon which is intended to attract attention to any object, product, place, activity, person, business, institution or organization, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement.

Soft armor stabilization means the use of vegetation, geotextiles, bioengineering, rolled erosion control products and similar materials in controlling erosion.

Special exception means a use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the planning and zoning committee.

Specified anatomical areas means:

(1) Less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes any of the following, simulated or actual:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

(2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.

(3) Showing of human genitals in a state of sexual stimulation or arousal.

(4) Excretory functions during a live performance, display or dance of any type.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 360 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Steps and landings means stairways that are built within the shoreland setback area. Stairs and landings are not to exceed six feet in width.

Structure means any human made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, riverbed, stream bed, or lake bed. In shoreland zoning, structure also means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

Subdivision has the meaning given in Ordinance Title 14.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Survey, certified, means a certified survey map of not more than four parcels of land on one page which shall be submitted to the Town zoning office for review prior to being recorded in the office of the register of deeds of the county and which shall meet the requirements of Title 14 of this Ordinance.

Tourist rooming house means the use of a single or two family dwelling for the purpose of providing or furnishing overnight lodging accommodations to the public for a period of less than one month to any person(s) who occupies the property on a rental basis.

Travel trailer/RV means a portable vehicle less than ten feet wide by 50 feet long designed and used for temporary living and housekeeping, office, and/or commercial purposes.

Undeveloped Land means Raw vacant land without utilities, buildings or even driveways.

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

Use means the purpose for which land or structures, or portions thereof, are occupied, maintained, employed or otherwise utilized.

Utilities means those services such as electric, telephone, gas, or other essential components of development that are necessary to provide fundamental usefulness to both dwellings and other structures whether private or commercial.

Variance means an authorization granted by the board of adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

Violation, for floodplain management purposes, means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

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

Walkway means a deck that is attached to a building and that does not exceed six feet in width and its construction is primarily to provide ingress and egress from an existing structure. Walkways added to a structure built prior to February 1995 are permitted within the shoreland setback area. Permits are required for all walkways.

Water surface profile means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

Well means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Wetlands means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Wharf. See *Dock.*

Yard means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory buildings in rear yards.

Yard, front, means an open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

Yard, rear, means an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard, side, means an open unoccupied space on the same lot with the building situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a sideline.

Zoning administrator means the employee of the Town officially designated to administer this chapter.

Zoning Ordinance Committee means the Town zoning and land use committee. The zoning committee may be referred to as the "planning committee."

Zoning district. See *District.*

Zoning permit means a permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is located.

Title 13 ► Chapter 3

Districts

13-3-1 Establishment of Districts
13-3-2 Zoning Map and District Boundaries

Sec. 13-3-1 - Establishment of districts.

For the purpose of this chapter, the unincorporated areas of the Town are hereby divided into the following types of districts:

(1) R-1 Recreational-Residential District.

(2) A-1 Agricultural District.

(3) C-1 Commercial District.

(4) I-1 Industrial District.

(5) F-1 Forestry District.

(6) W-1 Resource Conservation District.

(7) SW-1 Shoreland and Shoreland-Wetland District (Overlay).

(8) UND - Undeveloped District.

(9) GI – Government Institutional.

Sec. 13-3-2 - Zoning map and district boundaries.

(a) The location and boundaries of these districts are shown in a single map officially designated "Official Town of Big Bend Zoning Map, Rusk County, Wisconsin,"

(b) These maps, together with all explanatory matter and regulations thereon, are an integral part of this chapter. In the event of a conflict between zoning district boundaries shown on the official zoning map and the detailed zoning maps, the latter shall govern and prevail. District boundaries are normally lot lines, section and quarter section lines, or centerlines of streets, highways, railroads or alleys. Questions regarding the exact location of district boundaries shall be decided by the Town Zoning Administrator. Decisions may be reviewed on appeal to the board of adjustment as provided in section 13-16-4.

(c) The single official copies of the official zoning map and detailed zoning maps, together with a copy of this chapter, shall be kept at the Town Zoning Administrator's and Town Clerk's office and shall be available for public inspection during office hours. These maps shall be certified by the chairperson of the Town Board and attested by the Town Clerk.

Title 13 ► Chapter 4

Comprehensive Plan

13-4-1 Comprehensive Plan Adopted by Reference

Sec. 13-4-1 - Comprehensive Plan adopted by reference.

The Town adopts by reference the comprehensive plan titled "Town of Big Bend Comprehensive Plan," originally adopted by the Town on September 11, 2021, as and for the comprehensive plan for the Town. A copy of the plan is available in the office of the Town Clerk.

Title 13 ► Chapter 5

District Regulations

13-5-1 Application of Regulations
13-5-2 Standard District Regulations
13-5-3 Supplementary regulations

Sec. 13-5-1 - Application of regulations.

The use of any land or water; the size, shape and placement of lots; the use, size, height, type and location of structures thereon; and the provisions for open spaces shall be in compliance with the regulations set forth on the "Town of Big Bend Official Zoning Map, Rusk County, Wisconsin," and in the text of this chapter.

Sec. 13-5-2 - Standard district regulations.

(a) *Setback requirements on highways and roads.*

(1) All state and U.S. numbered highways are hereby designated Class A highways. The setback line for Class A highways and for any other roads designated as major roads on official maps in the Town shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater.

(2) All County trunk highways not otherwise designated as Class A highways are hereby designated Class B highways. The setback for Class B highways and for roads designated as arterial roads on official maps in effect in the Town shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater.

(3) All Town roads not otherwise designated Class A or Class B highways are hereby designated Class C highways. The setback for Class C highways and for streets other than major and arterial roads designated as such on official maps in effect in the Town shall be 65 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.

(4) A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street shall be permitted where five of these buildings do not conform with the appropriate setback line.

(5) Minor, readily removable structures such as open fences or signs permitted by this chapter may be placed within setback lines. Public utility equipment without permanent foundations is also permitted. When deemed necessary by the Town Zoning Ordinance Committee in connection with development such as highway improvement programs, property owners and public utilities may be required to remove, at their own expense and without right of compensation, any such structures erected within setback lines.

(b) *Visual clearance at intersections.* In each quadrant of every street intersection there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them 300 feet from a Class A highway intersection, 250 feet from a Class B highway intersection and 200 feet from a Class C highway intersection. If two highways of a different class intersect, the largest distance shall apply to both centerlines. Within this triangle, no object over 2½ feet in height above the streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten feet and located a minimum of 30 feet apart.

(c) *Access driveways.*

(1) Access driveways to highways from abutting properties shall comply with the following requirements:

a. Minimum distance of highway frontage between access driveways for separate land uses.

1. Class A highways.

(i) Federal aid primary highways: 600 feet.

(ii) Federal aid secondary highways: 500 feet.

2. Class B highways: 300 feet.

3. Class C highways: 75 feet.

b. Minimum distance access driveways may be located in the right-of-way of an intersecting highway.

1. Class A highways.

(i) Federal aid primary highways: 300 feet

(ii) Federal aid secondary highways: 250 feet.

2. Class B highways: 150 feet.

3. Class C highways: 75 feet.

(2) Where there is more than one lot abutting on Class A and Class B highways between access driveways, a service road of not less than 50 feet right-of-way shall be provided across the entire frontage of each lot unless a temporary access permit has been granted with the approval of the agency having jurisdiction over the highway. Use of access is limited to the use authorized in the temporary access permit. This permit would be revocable when a frontage road is provided.

(3) The maximum number and width of access driveways to highways and service roads shall be as follows:

Type of Access Driveway	Maximum Number of Access Driveways	Maximum Width of Access Driveways
Commercial and industrial land uses	2	35 feet
Other land uses	1	24 feet

(4) Where crossovers in median strips have been provided, access driveways shall be directly opposite these crossovers.

(5) Outlot access.

a. No outlot access driveways shall be permitted for outlots on county, state or federal highways. Pedestrian access which requires fill or an alteration of road construction shall be approved by the county highway commissioner in the case of county highways and the state department of transportation in the case of state or federal highways and shall be limited to a three-foot width of surface per lot.

b. Town Boards shall have the authority to approve or deny outlot access driveways on town roads.

(d) *Excessive height permitted.* Heights of the following structures may exceed limits for the district in which they are to be located with the approval of the Town Zoning Ordinance Committee: cooling

towers, stacks, penthouses, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antennae and necessary mechanical appurtenances.

(e) *Lot sizes.*

(1) After adoption of the ordinance from which this chapter is derived, no lot shall be so reduced that the dimensional and yard requirements required by this chapter cannot be met. Lots existing and of record prior to adoption of the ordinance from which this chapter is derived, but of substandard size, may be devoted to uses permitted in the district in which located.

(2) If two or more substandard lots with continuous frontage have the same ownership as of the effective date of the ordinance from which this chapter is derived, the lots involved shall be considered to be an individual parcel for the purpose of this chapter.

(3) Lots created after adoption of the ordinance from which this chapter is derived and which are not served by public sewer systems shall meet minimum area requirements of the county sanitary code.

(f) *Accessory uses and structures.*

(1) Any permanent, roofed structure serving as an accessory, if attached to the principal building, shall be considered a part of the principal building. If such structure is a building and is not attached to the principal building, it shall conform to the setback and other dimensional requirements of the district within which it is located.

(2) Permit.

a. No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable for a replacement septic system after construction of the accessory building.

b. No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable to bring any noncomplying structure on the lot into compliance with setback and other zoning requirements after construction of the accessory buildings.

(3) Any garage, as defined in this chapter, is to be considered an accessory building whether it is attached to a primary use structure or not.

(g) *Drainage, sanitation and water supply.*

(1) No principal building shall be erected, structurally altered or relocated on land which is not adequately drained at all times by reason of adverse soil conditions, steep slopes, shallow impermeable bedrock, periodic flooding or where the lowest floor level is less than four feet above the highest groundwater level.

(2) No principal building intended for human use or occupancy shall be erected, structurally altered or relocated on a lot, unless provision is made for safe and adequate facilities for water supply and disposal of sewage in accordance with the regulations of the County sanitary code and the appropriate requirements of the Wisconsin Administrative Code.

(3) The Town Zoning Administrator shall not hereafter authorize a building to be erected, structurally altered or relocated which has a private waste disposal system unless the plans for the system have been reviewed in accordance with the provisions of the County sanitary code and a sanitary permit has been issued.

(4) Private sewage disposal systems for dwelling units shall meet the location requirements of the County sanitary code and the applicable minimum standards of the Wisconsin Administrative Code.

(5) Where connection is not to be made to a public water system, no residential use shall be permitted unless provision is made for a safe and adequate supply of drinking water located on the premises, a permit for which has been obtained in accordance with the provisions of the County sanitary code.

Sec. 13-5-3 - Supplementary regulations.

(a) *Airport safety zones.* Except for field crops and fences under five feet high, the maximum height of any object located within 500 feet of either side of the centerline of a landing strip, and extended to a distance of two miles from the end of the runway shall be no higher than 1/20 of the distance of the object to the landing strip.

(b) *Off-street parking.* Any building hereafter erected or placed on a lot shall be provided with off-street parking spaces for those using such building.

(1) Each parking space required shall be at least 200 square feet in area.

(2) Residential uses shall be provided with at least one parking space for each dwelling unit.

(3) Commercial and industrial uses as listed and permitted in the zoning districts shall be provided, except as noted below, with one parking space for each 200 square feet of floor area. However, restaurants, taverns and similar establishments shall be provided with at least one space for each unit; drive-in eating stands offering in-car service shall be provided with at least five spaces for each person employed to serve customers.

(4) Public gathering uses shall be provided with at least one space for each five patrons to be accommodated on the premises.

(c) *Off-street loading and unloading.* Any commercial or industrial building hereafter erected or placed on a lot shall be provided with sufficient off-street loading and unloading space so that no public streets or alleys need be blocked by such activities. In the Industrial District, such buildings shall be provided with a minimum of 400 square feet of off-street loading and unloading space.

Title 13 ► Chapter 6

Signs

13-6-1 Permits Required
13-6-2 R-1 and W-1 Districts
13-6-3 C-1, R-1, A-1, I-1 and F-1 Districts
13-6-4 Unlawful Signs
13-6-5 Nonconforming signs

Sec. 13-6-1 - Permit required.

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered within the Town until a land use permit has been issued by the Town Zoning Administrator, except those signs excepted below and without being in conformity with the provisions of this article.

Sec. 13-6-2 - R-1 and W-1 Districts.

All signs are prohibited in the R-1 and W-1 Districts except the following:

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

(2) Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.

(3) Name, occupation and warning signs not to exceed two square feet located on the premises.

(4) Bulletin boards for public, charitable or religious institutions not to exceed 20 square feet in area located on the premises.

(5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(6) Official signs, such as traffic control, parking restrictions, information and notices.

(7) Temporary signs or banners when authorized by the Town Zoning Ordinance Committee.

Sec. 13-6-3 - C-1, R-1, A-1, I-1 and F-1 Districts.

Signs are permitted in the C-1, R-1, A-1, I-1 and F-1 Districts subject to the following restrictions:

(1) Wall signs placed against the exterior walls of buildings shall not extend more than six inches outside of a building's wall surface, shall not exceed 500 square feet in area for any one premises and shall not exceed 20 feet in height above the mean centerline street grade.

(2) Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, shall not extend more than six feet into any required yard, shall not extend into any public right-of-way, shall not be less than ten feet from all side lot lines, shall not exceed a height of 20 feet above the mean centerline street grade and shall not be less than ten feet above the sidewalk nor 15 feet above a driveway or an alley.

(3) Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which they are located, and shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one premises.

(4) Roof signs shall not exceed ten feet in height above the roof, shall meet all yard and height

requirements for the district in which they are located, and shall not exceed 300 square feet on all sides for any one premises.

(5) Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed.

(6) Signs or billboards which advertise a general brand of product, an area of interest, a business activity or a service available which is not in direct relation to the use of the premises on which they are located shall not exceed 300 square feet in area. Freestanding signs shall be erected outside a line parallel to and five feet from the highway right-of-way, shall not exceed 20 feet in height above the ground or be located within 300 feet of an existing residence.

(7) Recreational directory signs indicating the direction to a cottage, resort, residence or similar use shall not exceed four square feet in area. When a common posting is provided, all such signs shall be attached thereto. Recreational directory signs may be placed at the right-of-way line of the highway provided they are not within 100 feet of an existing residence. Information on such signs may be of reflective material.

(8) Signs advertising a business or activity conducted, area of interest or service available within 12 air miles of the premises on which they are located shall not exceed 20 square feet in area, and no more than two such signs relating to any one use shall be permitted in the approaching direction along any one highway. A larger number of signs and a greater distance from the premises may be permitted by the zoning committee by a conditional use permit on a finding of necessity for directing the traveling public.

(9) Combinations of any of the above signs shall meet all the requirements for the individual sign.

Sec. 13-6-4 - Unlawful signs.

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 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. No sign shall contain any rotating or moving parts or be illuminated by flashing light.

Sec. 13-6-5 - Nonconforming signs.

A sign lawfully existing at the time of the adoption or amendment of this article may be continued although the use, size or location does not conform with the provisions of this article. However, it shall be deemed a nonconforming use or structure and the provisions of 13-15-1 shall apply.

Title 13 ► Chapter 7

Special Uses

13-7-1 General Provisions
13-7-2 Quarries and Mines
13-7-3 Salvage Yards
13-7-4 Garbage and Refuse Disposal Sites
13-7-5 Mobile Home Parks
13-7-6 Trailer Camps
13-7-7 Major Recreational Equipment

Sec. 13-7-1 - General provisions.

Except as added to or altered in this article, the procedures and requirements of 13-10-1 governing conditional uses shall apply.

Sec. 13-7-2 - Quarries and mines.

(a) *Application required.* Application requesting Town Zoning Ordinance Committee approval of a proposed quarrying or mining activity shall be accompanied by:

(1) A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation and, where appropriate, the estimated daily quantity of water required, its source and its disposition.

(2) A legal description of the proposed site.

(3) A topographic map (may be required by the Town Zoning Ordinance Committee at a minimum contour interval of five feet) of the proposed site and the area extending beyond the site to a minimum distance of 300 feet on all sides.

(4) A restoration plan as hereinafter required.

(b) *Consideration of compatibility.* In reviewing a proposal for a quarrying or mining activity, the Town Zoning Ordinance Committee shall take into consideration:

(1) The effect of the proposed operation on drainage and water supply.

(2) The possibility of soil erosion as a result of the proposed operation.

(3) The most suitable land use for the area.

(4) Other considerations specified in Rusk County Ordinance Chapter 20, article III, division 2, pertaining to permitting requirements for metallic mineral mining and prospecting.

(c) *Restoration plan and financial guarantee required.* No grant to carry on a quarrying or mining operation shall be given until the Town Zoning Ordinance Committee approves a restoration plan and the owner agrees to restore the quarried area to a condition of practical usefulness and reasonable physical attractiveness as soon as practicable after the quarrying operations have ceased. The owner shall provide sufficient financial guarantee to secure the performance of the restoration. The agreement and financial guarantee shall be in a form approved the Town attorney.

(d) *Conditions for approval.* The Town Zoning Ordinance Committee may set forth conditions regarding appropriate setback and other dimensional requirements, particularly with reference to avoiding a nuisance effect on surrounding residential uses. Suitable fencing, capping and landscaping may be required.

(e) *Duration of conditional grant.* The initial grant to carry on a quarrying or mining operation shall not be effective for more than five years, except that the initial grant to carry on metal mining operations shall not be effective for more than 25 years. Authorization may be extended for any number of additional years, subject to conditions specified by the Town Zoning Ordinance Committee.

(f) *Existing quarry and past mining operations.*

(1) Within 60 days after the effective date of the ordinance from which this chapter is derived, the owners of all existing quarrying and past mining operations shall submit to the Town Zoning Ordinance Committee the names of the quarry and mine owners and operators and information regarding such operations.

(2) Within one year after adoption of this chapter, the owners shall submit to the Town Zoning Ordinance Committee a plan for restoration of the quarrying and mining site in accordance with subsection (c) of this section. The restoration plan shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of the ordinance from which this chapter is derived.

(3) Within three years after the effective date of the ordinance from which this chapter is derived, any such existing operation shall be subject to the provisions of subsections (c) through (e) of this section.

Sec. 13-7-3 - Salvage yards.

(a) *Purpose.* The purpose of this section is to control and govern the location, size, setbacks, and dimensions of salvage yards in the Town. The objective is not to remove or require relocation of existing salvage yards, but rather to regulate those that will begin after the effective date of the ordinance from which this section is derived. This section does not supersede any license or permit required by other state or federal agencies to legally operate a salvage yard. Junkyards and like uses are considered to be a salvage yard.

(b) *Classification of salvage yards.* The following classifies salvage yards in the Town:

(1) *Class A.* For the purpose of this article, a Class A salvage yard is defined as an operation licensed by the department of transportation that is in the business of buying and selling salvageable vehicles and equipment.

(2) *Class B.* For the purpose of this article, a Class B salvage yard is defined as an operation which stores or keeps for the purpose of buying, selling or processing salvageable metals, plastics, paper, wood, appliances, machinery and other salvage materials, excluding vehicles as per Class A classification.

(c) *Prohibited locations.*

(1) No salvage yard shall be allowed on any parcel of land less than one acre in size.

(2) No salvage yard will be permitted in any of the following zoning districts: RR-1 Recreational-Residential, -1 Forestry, W-1 Resource Conservation, SW-1 Shoreland and Shoreland-Wetland, and UND Undeveloped. UD Undeveloped.

(3) Within 2,000 feet of any incorporated city or village.

(4) Within 1,000 feet of any lake or pond or 500 feet of any named river or stream.

(5) Within 250 feet of any residential dwelling or potable well. Salvage yard property owner's residence and well are exempt from this requirement.

(6) Within any established floodplain of the Town as shown on current FEMA maps.

(d) *Exemptions.* The following are exempt from the requirements of this section:

(1) Approved recycling centers which are designated by the county, state, village, city, or town to receive and temporarily store materials for recycling.

(2) Those uses and activities as herein defined when entirely established within an enclosed building, provided that the use and activity is allowed within the zoning district.

(3) Materials that are stored by the property owner, for his own use, on his own land, when such person is engaged in farming.

(e) *Screening.*

(1) Those salvage yards that are located on a state or federal highway shall be screened according to the provisions of this article.

(2) Screening will be required when there is an existing development within 500 feet of the proposed salvage yard even if such development is located across the road.

(3) Screening is required so materials are not noticeably visible from other currently developed property in the vicinity of the salvage yard, nor from public rights-of-way such as roads, streets, highways and waterways. The screening shall be a minimum of eight feet in height and shall be kept in good repair.

(f) *Permit application is required.* A conditional use permit for a salvage yard is required. Application requesting Town Zoning Ordinance Committee approval of a proposed salvage yard activity shall be accompanied by the following:

(1) A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation.

(2) A legal description of the proposed location.

(3) A legible, detailed map showing the location and distance to development, land use and all wells within 250 feet of the proposed location.

(4) The contemplated size and location of all proposed structures that will be part of the operation.

(5) The location and separation distances of all driveways being proposed.

(g) *Standards.* The following standards shall apply to salvage yards: It is recommended that for fire protection, an unobstructed fire break be maintained one rod in width and completely surround the salvage yard operation.

(h) *Setbacks.* Setbacks, other than those already listed or described, shall be as follows:

(1) Whichever of the following is greater: ten feet from right-of-way or 60 feet from centerline of a highway when no fence is proposed.

(2) One foot from side yard property line when there is screening and no current development on the adjoining land.

Sec. 13-7-4 - Garbage and refuse disposal sites.

(a) No garbage or refuse disposal sites shall be permitted in the Town except in conformance with the rules and regulations of Wis. Admin. Code Ch. NR 51.

(b) All such disposal sites shall have minimum front, side and rear yards of 100 feet each.

(c) Garbage and refuse disposal sites shall be screened so that the materials are not visible from other property in the vicinity, nor from public rights-of-way such as roads, streets, highways and waterways.

Sec. 13-7-5 - Mobile home parks.

Except as otherwise specifically authorized, no mobile home intended for occupancy shall be located within the Town except in a mobile home park, the plan of which has been approved by the zoning committee. Such parks shall meet the following requirements:

(1) Minimum size: five acres.

(2) Maximum number of mobile home sites: six per acre.

(3) Minimum width of a mobile home site: 40 feet.

(4) Maximum height of a mobile home trailer: 15 feet.

(5) Minimum distance between mobile home trailers: 20 feet.

(6) Minimum distance between mobile home and service road: ten feet.

(7) Each mobile home site shall be connected to a public or common water supply system and a public or common sewage disposal system.

(8) All drives, parking areas and walkways shall be hard surfaced. There shall be one parking space for each mobile home and additional parking spaces for automotive vehicles within the park, totaling not less than 1¼ parking spaces for each mobile home space.

(9) No mobile home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage and one office are permitted.

(10) Minimum side yard setback: 40 feet at all front, side and rear lot lines of the mobile home park.

(11) Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by:

a. A temporary planting of fast growing material, capable of reaching a height of 15 feet or more; and

b. A permanent evergreen planting, the individual tree to be such a number and so arranged that within ten years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.

(12) All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.

(13) Mobile home parks shall comply with the sanitation regulations of the County sanitary code and the appropriate requirements of the Wisconsin Administrative Code.

Sec. 13-7-6 - Major recreational equipment.

(a) A property owner may store their own major recreational equipment on their own property without being subject to any time limit, as long as there is a residence on the same parcel and the equipment is not used for living or housekeeping purposes when parked or stored on the parcel.

(b) A single motor home/RV/camper shall be allowed to be used or stored on the owner's property where there is either no residence or one single family residence, for up to 90 days in one calendar year. Adequate sanitary facilities must be installed if pressurized water is available on site and for park models. If water is brought in, proof of wastewater pumping must be provided.

(c) More than one recreational vehicle on a parcel for more than 30 days per calendar year must meet trailer camp/campground requirements.

(d) Recreational vehicles must meet all setback requirements of a residence.

Title 13 ► Chapter 8

Adult Bookstore, Adult Cabaret, Adult Theater

13-8-1 Adult bookstore, Adult Cabaret, Adult Motion Picture Theater Regulations

Sec. 13-8-1 - Adult bookstore, adult cabaret or adult motion picture theater regulations.

(a) *Purpose.* It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

(b) *Findings.*

(1) The Board finds that adult-oriented establishments, as defined in this chapter, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.

(2) Based on its review of studies conducted in Phoenix, AZ; Garden Grove, CA; Los Angeles, CA; Whittier, CA; Indianapolis, IN; Minneapolis, MN; St. Paul, MN; Cleveland, OH; Oklahoma City, OK; Amarillo, TX; Austin, TX; Beaumont, TX; Dallas, TX; Houston, TX; Newport News, VA; Bellevue, WA; New York, NY; Seattle, WA; and St. Croix County, WI; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; and the findings incorporated in *City of Renton* v. *Playtime Theaters, Inc.,* 475 U.S. 41 (1986), *Colman A. Young* v. *American Mini-Theaters, Inc.,* 427 U.S. 50 (1976), *FW/PBS, Inc.* v. *City of Dallas,* 493 U.S. 215 (1990), *Barnes* v. *Glen Theatre, Inc.,* 501 U.S. 560 (1991), *City of Erie* v. *Pap's A.M.,* 120 S. Ct. 1382 (2000), *East of the River Enterprises II* v. *City of Hudson,* 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); *Ben's Bar, Inc.* v. *Village of Somerset,* 316 F.3d 702, 2003 WL 132541 (7th Cir. 2003); the board finds that there is convincing evidence that the secondary effects of adult-oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.

(3) The Town intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.

(4) It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult-oriented establishments while providing an outlet for First Amendment protected activities.

(5) In order to minimize and control the secondary effects of adult-oriented establishments upon the Town, it is the intent of the Board to prevent the concentration of adult-oriented establishments within a certain distance of each other and within certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult-oriented establishments.

(c) *Standards.* The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult-oriented establishments are entitled to certain protections. Therefore, an adult bookstore, an adult motion picture theater, and an adult cabaret are permitted as a conditional use permit in the I-1 Industrial zoning district and shall be

prohibited use in any other zoning district. The adult-oriented establishment may locate in the specified district only if applicable zoning district regulations are met:

(1) Such use shall not be located within 1,000 feet of any residence.

(2) Such use shall not be located within 1,000 feet of a public or private school, church, day care center, or park.

(3) Such use shall not be located within 1,000 feet of another adult bookstore, adult motion picture theater, or adult cabaret.

(4) The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the building which the proposed use is to be located, to the nearest point of the curtilage of the residence, school, church, day care center or park.

(5) Such use shall not be located in a structure that has a door, window, or opening that is constructed in such a way that the public can view the interior contents or activities without entering the structure.

(6) Such use shall display a two-foot by two-foot sign located within three feet of the structure entrance in such a position that any person approaching to enter will be able to read the following: "Must be 18 years old to enter" and "Material beyond this door may be offensive."

(7) Violation of these provisions is declared to be a public nuisance Title 13 – 3.

(8) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation, or maintenance of any business, building, or use which violates any county ordinances or statute of the state regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

Title 13 ► Chapter 9

Tourist Rooming House/All Short-Term Rentals

13-9-1 Tourist Rooming House/All Short-Term Rentals

13-9-1 - Tourist Rooming House/All Short-Term Rentals

(a) The approval for a tourist rooming house/all short-term rentals shall be for a period of one year of operation. The one year shall commence from the date the permit is issued, however, a land use permit shall not be issued prior to the property owner obtaining a lodging license from the Rusk County Public Health Department. The permit shall remain in effect provided annual reviews by the Zoning Administrator discloses that a lodging license has been obtained and is current, the conditions and all requirements of this chapter are adhered to.

(b) Operational rules shall be provided that establish guidelines that the tenants must comply with regarding, but not limited to; off-street parking, property lines, garbage collection, occupancy limits, fireworks, and excessive noise.

(1) The maximum number of tenants allowed to reside shall not exceed two persons per bedroom, plus two persons or maximum number of occupants based upon the capacity of septic system; whichever is less.

(2) A local contact person shall be identified that will be responsible to manage the property. The property owner may be the contact person.

(3) Contact information shall be posted on signage with a minimum display area of 8”x10” and placed on an exterior wall near the primary entrance of each rental residence and also attached to each fire number post near the driveway/parking entrance. The following must be provided:

a. Address of property.

b. Emergency contact information for police, fire and ambulance.

c. Owner's and local contact person's phone number.

d. Phone number for the Town of Big Bend (715-868-5775).

e. Maximum number of occupants allowed.

(4) The use of any additional sleeping quarters, such as, recreational vehicles and/or tents is prohibited.

(5) A liability insurance policy shall be maintained with limits of not less that $300,000 per individual, $1,000,000 aggregate.

(6) Advertising the property for rent in any manner prior to being licensed by both Rusk County and the Town of Big Bend is prohibited.

(7) Upon occurrence of two documented and validated violations of the operational rules within a calendar year, the owner shall be subject to revocation of the permit.

Title 13 ► Chapter 10

Conditional Uses

13-10-1 General Provisions
13-10-2 Procedure

Sec. 13-10-1 - General provisions.

One of the purposes of this chapter is to divide the unincorporated portions of the Town into districts within which the use of land and buildings, and the bulk and location of buildings in relation to the land are mutually compatible and substantially uniform. There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic uses permitted in any district, but not at every or any location thereon or without restrictions or conditions being imposed by reason of unique problems that use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land or public facilities, and the public need for the particular use at a particular location. Such uses may be necessary or desirable to be allowed in a particular district, provided that due consideration is given to their location, development and operation. Such uses are hereby classified as conditional uses and are subject to the provisions specified in this article.

(1) *Approvals required.*

a. Any conditional uses listed in this chapter shall be permitted only after receiving the appropriate Town Zoning Ordinance Committee and then Town Board approval.

b. Any person must make a request to the Town Clerk for a conditional use permit. The Town Clerk shall promptly send the application to the Town Zoning Administrator with any or all data the applicant deems pertinent to the situation. The Town Zoning Administrator shall make a determination and send such determination to the Town Zoning Ordinance Committee. The Zoning Ordinance Committee will then follow the procedures specified in this article to consider the conditional use application. The conditional use permit shall be then presented to the Town Board. (See Appendix A – Flow Chart)

c. In those areas where the appropriate Town Board and the Zoning Ordinance Committee disagree, the Town Board will make the final determination,

d. Upon such approvals, issuance of a conditional use permit will be granted.

(2) *Basis of approval.* The Town Zoning Ordinance Committee shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the Town and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, existing topography, drainage features, erosion potential, vegetation cover, the prevention and control of water pollution, the location with respect to floodplains and floodways, the movement of traffic and the relationship to existing or proposed roads, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke or odor and other factors.

(3) *Conditions which may be required.* Upon consideration of the factors listed above, the Town Zoning Ordinance Committee may attach such conditions, in addition to those required elsewhere in this chapter, that it deems necessary to further the purposes of this chapter. Violation of any of these conditions shall be deemed a violation of this chapter. Such conditions may include, without limitations because of specific enumeration, increased setbacks and yards, specified waste disposal and water supply facilities, landscaping and planting screens, operational controls, sureties and deed restrictions.

Sec. 13-10-2 - Procedure.

(a) *Application.* Application for a conditional use permit shall be made to the Town Clerk who shall promptly refer the application to the Town Zoning Administrator, forwarding immediately to the Town Zoning Ordinance Committee. Town Zoning Ordinance Committee may require the applicant to submit other pertinent data and information necessary to properly evaluate the request. The Zoning Ordinance Committee may further request information it deems necessary from the appropriate party to further evaluate the request.

(b) *Fees.* The fee for filing of application for the conditional use permits shall be established by the Town Zoning Ordinance Committee and Town Board. A copy of the current fee schedule shall be kept on file in the office of the Town Clerk.

(c) *Hearing.* The Town Zoning Ordinance Committee shall schedule a public hearing on the application within 30 days after it is filed or in a special situation, which shall be written into the minutes of the committee, may waive the public hearing requirements.

(d) *Determination.* The Zoning Ordinance Committee shall report its decision within 90 days after the filing of the application. Its decision shall include an accurate description of the use permitted, of the property on which it is permitted, and all conditions made applicable thereto.

(e) *Mapping and recording.* When a conditional use permit is granted, an appropriate record shall be made of the land use and building permits, and such grant shall be applicable solely to the structures, use and property so described.

(f) *Termination.* Where a permitted conditional use does not continue in conformity with the conditions of the original approval, the conditional use permit may be suspended by the Zoning Administrator or Zoning Ordinance Committee or terminated by action of the Town Board.

Title 13 ► Chapter 11
Zoning Districts

If the intended use of this property is not specifically authorized under the districts below it is prohibited unless a variance is granted by the Town. See "Permitted Use" under definitions.

13-11-1 R-1 Residential District
13-11-2 A-1 Agricultural Districts
13-11-3 C-1 Commercial
13-11-4 I-1 Industrial District
13-11-5 F-1 Forestry District
13-11-6 W-1 Resource Conservation District
13-11-7 Shoreland and Shoreland–Wetland District (Overlay)
13-11-8 UMD – Undeveloped District
13-11-9 GI Government Institutional

Sec. 13-11-1 - Residential District – R-1

The Residential District provide for one- and two-family year around and seasonal residential and recreational development and essential recreation-oriented services in areas of high residential and recreational value protected from traffic hazards and the intrusion of incompatible land uses. It is intended to encourage such development around existing residential and recreational areas where soil conditions and physical features will support and are suitable for such development without depleting or destroying natural resources. It is also intended that these areas are economically able to be provided with and readily served by utilities, roads, and other essential facilities and services.

(1) *Allowed uses.*

a. Private horticulture and gardening.

b. Essential services and utilities intended to serve the principal permitted use.

c. Remodeling of existing conforming structures provided such remodeling does not change the use, overall volume, or substantially alter the exterior dimensions of said structure.

d. Tool sheds, doghouses, school bus stop shelters, and other like structures less than 13 feet in height and 100 square feet in dimensional size, provided they are not located within a required setback area.

e. Forest management programs.

(2) *Uses authorized by a land use permit.*

a. One- and two-family individual year around and seasonal dwellings.

b. Private garages, carports, accessory buildings, and other land uses clearly incidental to the customary principal use.

c. All structures, additions, and other construction improvements such as decks and patios, not to include remodeling, new roofing, siding, or other structural changes that do not increase the dimensional characteristics of existing buildings.

d. All access roads, driveways, and entrances require a permit.

e. Signs, subject to the provisions of 13-6-1.

f. Customary home occupation.

g. Recreational trails, including, but not limited to, hiking, snowmobiling, skiing, all-terrain vehicles (ATVs), and horseback riding.

h. Satellite dishes, outside wood burning devices and other similar incidental equipment that serves a principal or accessory permitted use.

(3) *Uses authorized by Town Board and Zoning Ordinance Committee approval.*

a. Commercial horticulture and gardening.

b. Customary accessory uses, provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.

c. The replacement of a mobile home or primary housing unit with another provided the initial installation had been granted a new conditional use permit and meets the current requirements.

(4) *Uses authorized by a conditional use permit.*

a. Multifamily (three or more) dwelling units.

b. Rooming houses and boarding houses (bed and breakfasts).

c. Travel trailers, recreational vehicles (RVs) and primary housing units intended for primary occupancy.

d. Mobile home parks and travel trailer-RV campgrounds.

e. Public and semi-public uses, including, but not limited to, public and private schools, churches, public parks and recreational areas, hospitals, rest homes and homes for the aged, fire and police stations, and historic sites. Sewage disposal plants, garbage incinerators, and commercial maintenance, repair, and storage buildings shall not be permitted.

f. Commercial telephone, telegraph, and power transmission and communication towers, substations, relay and repeater stations and accompanying towers, equipment housing and other necessary appurtenant equipment and structures.

g. Commercial home occupations or professional offices, provided no such use occupies more than 25 percent of the total floor area of the dwelling, not more than one nonresident person is employed on the premises, and such use will not include an operational activity that would create a nuisance to be otherwise incompatible with the surrounding area.

h. Recreational service-oriented uses, such as resorts and motels, tourist rooming houses, restaurants and cocktail lounges, marinas, sport shops and bait sales, and other recreational services which in the opinion of the Town Zoning Ordinance Committee are of the same general character or clearly incidental to a permitted use or use authorized by a conditional permit.

i. Storage rental units.

j. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

Sec. 13-11-2 - A-1 Agricultural District.

The A-1 Agricultural District is intended to provide for the continuation of general farming and related activities in those areas best suited for such development and to prevent the untimely and uneconomical scattering of residential, commercial or industrial development into such areas.

(1) *Permitted uses.*

a. One-family and two-family farm residences and a single mobile home, but only when occupied by owners or persons engaged in farming activities on the premises.

b. All agricultural land uses, buildings and activities, except farms for disposal of garbage or offal.

c. Roadside stands for the sale of products grown on the premises, if sufficient off-street parking space for customers is provided.

d. Agricultural processing industries and warehouses, except slaughterhouses, and rendering and fertilizer plants.

e. Farm recreational uses, such as riding stables, winter sports activities.

f. Essential services and utilities intended to serve a permitted principal use on the premises.

g. Woodlots and tree farms.

h. Customary uses, provided such uses are clearly incidental to a principal permitted use.

i. Signs subject to the provisions of 13-6.

j. Residential dwellings and accessory structures on parcels that have an existing allowed residential use.

(2) *Uses authorized by conditional use permit.*

a. One-family and two-family year around dwellings.

b. Mobile home parks and trailer parks.

c. A primary housing unit provided the lot area and setback requirements of this district are met and the owner provides an accessory building or garage for storage purposes.

d. Public and semi-public uses, including, but not limited to, public and private schools, churches, public parks and recreation areas, hospitals, rest homes and homes for the aged, fire and police stations, historic sites. Sewage disposal plants and garbage incinerators shall not be permitted.

. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.

f. Airports

g. Quarrying, mining and processing of products from these activities are subject to the provisions of 13-7-2.

h. Home-based businesses.

i. Storage rental units.

j. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

k. Tourist rooming houses.

Sec. 13-11-3 - C-1 Commercial District.

The C-1 Commercial District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and similar commercial establishments.

(1) *Permitted uses.* Facilities such as, but not limited to, the following:

a. Retail stores and shops offering convenience goods and services.

b. Business and professional offices and studios.

c. Banks and savings and loan offices.

d. Public and semi-public buildings and institutions.

e. Commercial entertainment facilities.

f. Laundromats.

g. Restaurants.

h. Taverns.

i. Medical and dental clinics.

j. Auto service stations and maintenance facilities.

k. Public and private marinas.

l. Recreation service-oriented facilities as stated in the R-1 district.

m. Motels and tourist homes.

n. Rooming houses and boarding houses.

o. Customary accessory uses, provided such uses are clearly incidental to the principal permitted use.

(2) *Uses authorized by conditional use permit.*

a. Public and semi-public conditional uses as stated in the R-1 district.

b. New and used car sales establishments.

c. Wholesaling establishments.

d. Transportation terminals.

e. Farm implement sales firms.

f. Outdoor theaters.

g. Miniature golf, go-carts and amusement parks.

h. Drive-in establishments offering in-car service to customers.

i. Single-family dwellings and primary housing units, but only when occupied by owners or persons engaged in commercial activities on the premises.

j. Home-based businesses.

k. Storage rental units.

Sec. 13-11-4 - I-1 Industrial District.

The I-1 Industrial District is intended to provide for manufacturing and industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to surrounding areas by reason of smoke, noise, dust, odor, traffic, physical appearance or similar factors relating to public health, welfare and safety. Those industries requiring outdoor storage for raw materials or finished products may be required to provide a fence or screen in accordance with the provisions of section 13-7-1.

(1) *Permitted uses.*

a. Manufacturing, assembly, fabricating and processing plants and similar type industrial operations consistent with the purposes of this district.

b. General warehousing.

c. Accessory uses clearly incidental to a permitted use.

(2) *Uses authorized by conditional use permit.*

a. Salvage yards, subject to the provisions of section 13-7-3.

b. Quarrying, mining and processing of products from these activities, subject to the provisions of section 13-7-2.

c. Adult book store, adult cabaret or adult motion picture theater subject to 13-8-1.

d. Any use determined to be objectionable by the Town Zoning Ordinance Committee and/or the Town Board on the basis of pollution, noise, dust, smoke, vibration, odor, flashing lights or danger of explosion may be permitted only upon the issuance of a conditional use permit setting forth dimensional and site requirements, performance standards, aesthetic controls and pollution standards for that particular use.

Sec. 13-11-5 - F-1 Forestry District.

The F-1 Forestry District provides for the continuation of forest programs and related uses in those areas best suited for such activities. It is intended to encourage forest management programs and also to recognize the value of the forest as a recreational resource by permitting as a conditional use certain recreational activities, which, when adequately developed, are not incompatible to the forest.

(1) *Permitted uses.*

a. Production of forest crops, including tree plantations.

b. Harvesting of wild crops, such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.

c. Hiking trails, snowmobile trails and wildlife refuges.

d. Signs, subject to the provisions of 13-6-1.

e. Hunting and fishing cabins.

f. Seasonal dwellings and customary accessory buildings, such as private garages and carports on the same lot as the seasonal dwelling unit.

g. A primary housing unit, provided the lot area and setback requirements of this district are met and the owner provides an accessory building or garage for storage purposes.

h. One-family and two-family year around dwelling units and accessory buildings.

(2) *Uses authorized by a conditional use permit.*

a. Public and private parks, playgrounds and winter sports areas.

b. Dams, plants for production of electric power and flowage areas.

c. Trailer camps subject to the provision of 13-7-6

d. Forest-connected industries, such as sawmills, debarking operations, chipping facilities and similar operations.

e. Recreation and youth camps.

f. Riding stables.

g. Shooting ranges.

h. Quarrying and mining operations are subject to the provisions of section 13-7-2.

i. Year around residence for caretakers of recreational areas.

j. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures, radio and television stations and transmission towers, fire towers, and microwave relay towers.

k. Airports, subject to the provisions of 13-5-3.

l. Garbage and refuse disposal sites are subject to the provisions of section 13-7-4.

m. Resorts/motels, tourist rooming houses and other similar business operations as approved by the zoning committee.

n. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

Sec. 13-11-6 - W-1 Resource Conservation District.

The W-1 Resource Conservation District is intended to be used to prevent destruction of natural or manmade resources and to protect watercourses, including where developments would result in hazards to health or safety, would deplete or destroy resources or be otherwise incompatible with the public welfare. The provisions of this district shall not apply to, nor override, the shoreland wetland regulations set forth in NR115, State and County regulations.

(1) *Permitted uses.*

a. Public fish hatcheries.

b. Soil and water conservation programs.

c. Forest management programs.

d. Wildlife preserves.

(2) *Uses authorized by conditional use permit.*

a. Drainage where such activity will not be in conflict with the stated purposes of this district.

b. Public and private parks.

c. Grazing where such activities will not be in conflict with the stated purposes of this district.

d. Accessory structures, such as hunting and fishing lodges.

e. Orchards and wild crop harvesting.

f. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housings and other necessary appurtenant equipment and structures, radio and television stations and transmission towers, fire towers and microwave relay towers.

g. Trailer camps, subject to the provision of section 13-7-6.

h. Signs, subject to the provisions of 13-6.

i. Recreation trails, where such activities would not be in conflict with the stated purpose of this district.

j. No use shall involve dumping or filling of mineral soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography.

13-11-7 Shoreland and Shoreland–Wetland District (Overlay)
Reference Title 13-12

13-11-8 UND – Undeveloped District
Reserved for future.

13-11-9 GI Government Institutional
Reserved for future.

Title 13 ► Chapter 12
Shoreland/Wetland Districts

The governing office for Shoreland/Wetland Zoning is Rusk County Zoning.

Title 13 ► Chapter 13

Planned Unit Development District

13-13-1 Intent
13-13-2 Submission of plans for proposed development

Sec. 13-13-1 - Intent.

This district is intended to provide for large-scale residential or residential/recreational development. This district shall have no definite boundaries until such are approved by the Town Board on the recommendation of the Zoning Ordinance Committee in accordance with procedures prescribed for zoning amendments by Wis. Stats. § 59.69.

Sec. 13-13-2 - Submission of plans for proposed development.

Plans for the proposed development shall be submitted in duplicate and shall show the location, size and proposed use of all structures and land included in the areas involved. The plans may provide for a combination of single and multifamily development as well as related commercial uses, provided that the plans indicate that:

(1) A single area of at least five acres is involved.

(2) Each residential building and lot in the district will conform to the R-1 district requirements and each commercial building and lot will conform to the C-1 district requirements.

(3) Adequate streets and sidewalks as determined to serve the needs of the area involved will be provided.

(4) Adequate access to public streets and proper internal circulation will be provided.

(5) Adequate sewer and water facilities will be provided.

(6) The development will constitute a reasonable extension of the living areas in the county and will be compatible with surrounding land uses.

Title 13 ► Chapter 14

Dimensional Requirements

13-14-1 Dimensional Requirements

Sec. 13-14-1 - Dimensional requirements.

The following table represents the dimensional requirements for the Town:

	R-1	A-1	C-1	I-1	F-1	W-1
Building Height Limit	35 feet*	35 feet**	35 feet*	60 feet*	35 feet*	35 feet*
Required Lot Area – Square Feet						
With public sewer	87,120	87,120	87,120	87,120	87,120	87,120
Without public sewer	87,120	87,120	87,120	217,800	87,120	87,120
Within shorelands – Unsewered	20,000	20,000	20,000	217,800	87,120	20,000
Within shoreland – Sewered	10,000					10,000
Buildable Lot Width						
With public sewer	200	200	200	200	100	200
Without public sewer	200	150	200	200	200	200
Yard Required						
Front	30	50	10	50	30	30
Side, principal building	10	20	10	20	10	10
Within shoreland	10	20	10	20	10	10

Side, accessory building	5	10	5	10	5	5

	R-1	A-1	C-1	I-1	F-1	W-1
Rear	25	50	20	50	40	25
Floor Area - Square Feet						
Principal residence						
3 bedrooms	700	700	700	700	700	700
2 bedrooms	600	600	600	600	600	600
1 bedroom	500	500	500	500	500	500
Seasonal Cabins and Mobile Homes						
3 bedrooms	440	440			440	440
2 bedrooms	340	340			340	340
1 bedroom	240	240			240	240
*Except Towers **Except silos and farm structures						

Title 13 ► Chapter 15

Nonconforming Uses

13-15-1 Defined and Regulated

Sec. 13-15-1 - Defined and regulated.

Present uses of buildings, signs and premises may be continued even though they do not conform to the restriction of this chapter. Ordinary maintenance and repair is unlimited. No structural alterations, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its existing square footage, unless it is permanently changed to conform to the requirements of this article. Any nonconforming use or building that is abandoned for one year shall be discontinued permanently.

Definitions:

Structural alterations: External alterations or additions to a structure which does not include ordinary maintenance and repair.

Title 13 ► Chapter 16

Administration

13-16-1 Town Zoning Administrator
13-16-2 Land use permits
13-16-3 Violations
13-16-4 Board of adjustment
13-16-5 Amendments
13-16-6 Public hearings
13-16-7 Zoning fee schedule

Sec. 13-16-1 - Town zoning administrator.

(a) *Designation.* The Town Board shall appoint a zoning administrator for the administration and enforcement of the provisions of this chapter. The Town Board may also authorize the designation of deputy zoning administrators to assist in the enforcement and administration of this chapter.

(b) *Duties.* In administering and enforcing this chapter, the zoning administrator and any of his deputies shall perform the following duties:

(1) Provide necessary forms and applications for use permits.

(2) Issue land use permits where the provisions of this chapter have been complied with.

(3) Issue conditional use permits when authorized by the zoning ordinance committee.

(4) Survey the Town, upon adoption of this chapter and when necessary upon the passage of amendments, identify and record information relative to nonconforming uses and structures.

(5) Maintain files of applications, permits and other relevant information.

(6) Make an annual report of the activities to the zoning ordinance committee.

(c) *Powers.* The zoning administrator and appointed deputies shall have powers and authority including, but not limited to:

(1) Access to any structure or premises for the purpose of performing all duties between 8:00 a.m. and 6:00 p.m. by the permission of the owner or upon issuance of a special inspection warrant.

(2) Upon reasonable cause or question as to proper compliance, revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter.

(3) Citation authority pursuant to Town resolutions.

Sec. 13-16-2 - Land use permits.

(a) *Permit required.* No structure shall be built, moved or structurally altered, and no land use shall be substantially altered until a land use permit has been issued by the zoning administrator. The Zoning Administrator shall not issue a permit for a structure or a use not in conformity with the requirements of this chapter. The fee for filing of applications for land use permits shall be established by the zoning ordinance committee. A copy of the current fee schedule shall be kept on file in the office of the Zoning Administrator, office of the Town Clerk and posted on the Town website.

(b) *Application procedure.* Applications for land use permits shall be accompanied by scale maps or drawings showing accurately the location, size and shape of the lots involved and of any proposed structures, including the relation to abutting streets or lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated.

(c) *Expiration.* Land use permits for construction, alteration or removal of structures shall expire 24 months from their date of issuance if no building activity has begun within such time.

(d) *Exceptions.* A land use permit is not required for farm buildings or school bus stop shelters, provided such structures meet the dimensional and setback requirements of this chapter.

Sec. 13-16-3 - Violations.

Except as otherwise provided, any person who violates this chapter shall forfeit an amount as provided in the Town fine and forfeiture schedule, plus costs of prosecution, for each day of violation. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated, including, but not limited to, requirements that the property be restored to its condition prior to such violation.

Sec. 13-16-4 - Board of adjustment.

The Town board of adjustment shall have the following powers:

(1) Grant a variance from only the dimensional standards of this chapter.

(2) Hear and decide appeals from a conditional use permit decision of the Town Zoning Ordinance Committee pursuant to Section 13-12-16 or Section 13-12-19(d), and from the denial by the Town Zoning Ordinance Committee to issue a conditional use permit. See Sections 13-10-1 and 13-10-2.

Sec. 13-16-5 - Amendments.

(a) *Procedure.* The Town Board may amend this chapter.

(b) *Fee.* Any petition for amendment submitted by other than a governmental body shall be accompanied by a fee to defray the cost of advertising, investigation and processing.

Sec. 13-16-6 - Public hearings.

(a) *Notice.* Adequate notice shall be given of any public hearing required by the provisions of this chapter, stating the time and place of such hearing and the purpose for which it is being held.

(b) *Procedure.*

(1) *Posting and publishing.* Notice of public hearing shall be given.

(2) *Notice of proposed change.* In addition, when the hearing involved a proposed change in the zoning district classification of any property, or the granting of a conditional use, copy of the notice shall be posted in the vicinity of the proposed change or conditional use, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 300 feet of any part of the land included in such proposed change or conditional use at least ten days before such public hearing. The failure of such notice to reach any property owner shall not invalidate any amending ordinance or grant of a conditional use.

Sec. 13-16-7 - Zoning fee schedule.

A Town zoning fee schedule is available in the office of the Town Clerk, Town Zoning Administrator and is posted on the Town website.

Title 13 ► Chapter 17

Public or Private Campgrounds

(1) Private or public campgrounds NOT IN shoreland/wetland or flood plain areas are governed by the Town of Big Bend Ordinance, Title 7-7-7.

(2) The governing office for private or public campgrounds within shoreland/wetland or flood plain areas is the Rusk County Zoning Department.

Title 13 ► Chapter 18

Oversight – Variance - Enforcement

13-18-1 Zoning Oversight
13-18-2 Board of adjustment/appeals
13-18-3 Variance
13-18-4 Enforcement and penalties

Sec. 13-18-1 - Zoning Oversight.

(a) Reference WI Stat. 60.61(a) The Town Board shall appoint a Town Zoning Ordinance Committee consisting of 7 members and a non-voting Town Board liaison member.

(b) The Town Zoning Ordinance Committee shall:

(1) Oversee the functions of the office of the Zoning Administrator; and

(2) Review and advise the Town Board on all proposed amendments to this article, maps and text.

(c) The Town Zoning Ordinance Committee shall not:

(1) Grant variances to the terms of this article in place of action by the Board of Adjustment/Appeals; or

(2) Amend the text or zoning maps in place of official action by the Town Board.

Sec. 13-18-2 - Board of adjustment/appeals.

(a) Town Board of Adjustment:

(1) Membership: The Town Board shall appoint a board of adjustment which consists of three (3) members. Not more than one Town Board supervisor may be a member of the Board of Adjustment.

(2) Power and Duties: The Town Board may authorize the Board of Adjustment to, in appropriate cases and subject to appropriate conditions and safeguards permit special exceptions to the terms of the Zoning Ordinance.

(3) Procedure: Meetings of the Board shall be held at the call of the chairman and other times as the Board may determine. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or if absent indicating that fact and shall keep records of its examintation and other official actions all of which shall be immediately filed in the Board office and shall be a public record.

(b) *Generally.* The Board of Adjustment/Appeals, created under Wisconsin Stat. 60.65, is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by state law and adopt rules for the conduct of business. The Zoning Administrator may not be the secretary of the board.

(c) *Powers and duties.* The Board of Adjustment/Appeals shall:

(1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.

(2) *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(3) *Variances.* Hear and decide, upon appeal, variances from the article standards.

(d) *Appeals to the Board.* Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(e) *Notice and hearing for appeals, including variances.*

(1) *Notice.* The board shall:

a. Fix a reasonable time for the hearing;

b. Publish adequate notice pursuant to state statutes, specifying the date, time, place and subject of the hearing;

c. Assure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.

(2) *Hearing.* Any party may appear in person or by agent or attorney with the Zoning Ordinance Committee. The board shall:

a. Resolve boundary disputes according to subsection (e) of this section.

b. Decide variance applications according to section 13-18-3.

c. Decide appeals of permit denials.

(3) *Decision.* The final decision regarding the appeal or variance application shall:

a. Be made within a reasonable time;

b. Be a written determination signed by the chairperson or secretary of the board;

c. State the specific facts which are the basis for the board's decision;

d. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

e. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(f) *Boundary disputes.* The following procedure shall be used by the board in hearing disputes.

(1) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.

(2) If the boundary is incorrectly mapped, the board should inform the Zoning Ordinance Committee, or the person contesting the boundary location should petition the Town Board for a survey amendment.

Sec. 13-18-3 - Variance.

(a) The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:

(1) Literal enforcement of the article provisions will cause unnecessary hardship;

(2) In such case, the survey must be changed at the owner’s expense.

(3) The variance is not contrary to the public interest; and

(4) The variance is consistent with the purpose of this article in section 13-12-2.

(b) A variance shall not:

(1) Grant, extend or increase any use prohibited in the zoning district.

(2) Be granted for a hardship based solely on an economic gain or loss.

(3) Be granted for a hardship which is self-created.

(4) Damage the rights or property values of other persons in the area.

(5) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(c) For appeals of all denied permits, the board shall:

(1) Follow the procedures of section 13-18-2;

(2) Consider Zoning Ordinance Committee recommendations; and

(3) Either uphold the denial or grant the appeal.

Sec. 13-18-4 - Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the Town attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Town a penalty as stated in Section 1-1-6 (a) of the Town of Big Bend Ordinances. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wisconsin law.

Title 13 ► Chapter 19

Regulation of Solar Energy Systems

13-19-1	Title and Purpose
13-19-2	Authority
13-19-3	Intent, Interpretation
13-19-4	Definitions
13-19-5	Application Procedure
13-19-6	Permitted Accessory Use
13-19-7	Principal Uses
13-19-8	Penalties and Enforcement
13-19-9	Effective Date

Title 13 ► Chapter 19
Regulation of Solar Energy Systems

RECITALS

A. Section 66.0401 of the Wisconsin Statutes limits and defines the ability of political subdivisions to regulate solar energy systems.

B. The Wisconsin Public Service Commission has created regulations under said statutes which further limit and define the ability of political subdivisions to regulate solar energy systems.

C. It is the desire of the Town Board of the Town of Big Bend to exercise such authority as it is permitted to exercise under Wisconsin law to regulate solar energy systems.

NOW, THEREFORE, the Town Board of the Town of Big Bend, County of Rusk, State of Wisconsin, ordains as follows:

Sec. 13-19-1 - TITLE AND PURPOSE

The title of this Ordinance is the "Town of Big Bend Solar Energy Ordinance." The purpose of this ordinance is to, within the limited authority granted to the Town Board as a political subdivision, establish regulations on the installation and use of Solar Energy Systems within the Town of Big Bend, and preserve and protect the public health and safety of the Town of Big Bend.

Sec. 13-19-2 - AUTHORITY

The Town Board of the Town of Big Bend has the specific authority under § 66.0401 Wis. Stats., and general authority under its village powers under § 60.22, Wis. Stats., to adopt this ordinance.

Sec. 13-19-3 - INTENT, INTERPRETATION, ABROGATION AND LESSER RESTRICTIONS

A. <u>Intent</u>

It is the general intent of this Ordinance to regulate, within the limited authority granted to the Town Board by the Sections 66.0401 and 66.0403 of the Wisconsin Statutes, the installation and use of Solar Energy Systems within the Town of Big Bend.

B. <u>Interpretation</u>

The provisions of this Chapter shall be liberally construed in favor of the Town and

public health and safety and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

C. Abroption and Lesser Restrictions

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or permits adopted or issued pursuant to law. If any specific provision of this Chapter is found to be a greater restriction than a specific restriction created by Wisconsin Statute Section 66.0401 and defined in Wisconsin Statute Section 13.48(2)(h)l.g., then the lesser restriction of Wisconsin Statute Section 66.0401 shall apply.

Sec. 13-19-4 - DEFINITIONS

In this ordinance:

A. " Applicant" means an Owner applying to the Town of Big Bend for approval of a Solar Energy System to be sited fully or partially within the Town of Big Bend and/or for a Permit.

B. "Application" means an application to the Town Board for approval of a Solar Energy System to be sited fully or partially within the Town of Big Bend, Rusk County, Wisconsin.

C. "Building-Integrated Solar Energy System" means a combination of building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials and shading over windows, rather than a separate mechanical device, for the purpose of producing electricity for on-site usage or consumption.

D. [11]Commercial Communications" includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of--sight, microwave, Personal Communications service, weather radar, and wireless internet service.

E. "Committee" means a Solar Energy committee composed of the members of the Town's planning and zoning committee, but excluding the member of the planning and zoning committee who is also a member of the Town Board, and adding a member of the Town's board of adjustment appointed by the Town Chair.

F. "Community-Scale Solar Energy Systems" means a commercial Solar Energy System that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-

Scale Solar Energy Systems are principal uses.

G. "Decommissioning" means removing solar panels, buildings, cables, electrical components, roads, and any other facilities associated with a Solar Energy System that are located at the site of a Solar Energy System and restoring the site of the Solar Energy System, as close as reasonably possible, to the condition existing prior to installation of the Solar Energy System that was removed.

H. "Glare" means the effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

I. "Ground-Mounted Solar Energy System" means a solar energy system anchored to the ground and mounted on a rack or pole, detached from any other structure for the purpose of producing electricity for on-site or off-site usage or consumption of any kilowatt {kw} alternating current (ac) capacity.

J. "Large-Scale Solar Energy System" means a solar energy system that is ground- mounted and produces energy for the purpose of on-site usage or consumption with system capacity of more than 25 kW AC and generates no more than 110% of the electricity consumed on the site over the previous 12 months.

K. "Nonparticipating Property" means real property that is not a Participating Property.

L. "Nonparticipating Residence" means a residence located on Nonparticipating Property.

M "Occupied Community Building" means a school, church or similar place of worship, daycare facility or public library.

N. "Owner" means

1. A person with a direct ownership interest in a Solar Energy System, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a Solar Energy System.

2. At the time a Solar Energy System is being developed, a person who is acting as a Solar Energy System developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a Solar Energy System, regardless of whether the person will own or operate the Solar Energy System.

0. “Participating Property" means any of the following:

1. Property on which a Solar Energy System is located.

2. Real property that is the subject of an agreement that does all of the following: provides for the payment of monetary compensation to the landowner from an Owner regardless of whether any part of a Solar Energy System is constructed on the property; and specifies in writing any waiver of a requirement or right under this Ordinance and that the landowner's acceptance of payment establishes the landowner's property as a Participating Property.

O. "Participating Residence" means a residence located on a Participating Property.

P. "Personal Communications" includes wireless telecommunications, Personal Communications service, radio, television, wireless internet service, and other systems used for personal use purposes.

Q. "Photovoltaic System" means a solar energy system that converts solar energy directly into electricity.

R. "Residence" means an occupied primary or secondary personal residence including a manufactured home, a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include any of the following: (a) recreational vehicles; (b) camping trailers; or (c) permanently abandoned personal residences.

S. "Residential Solar Energy System" means a Roof--Mounted Solar Energy System located on a Residence.

T. "Roof-Mounted Solar Energy System" means a solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site usage or consumption of any kilowatt (kw) alternating current (ac) capacity.

a. "Solar Access" means an unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

b. "Solar Collector" means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

c. "Solar Energy Equipment" means electrical energy storage devises, material, hardware, inverters or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

d. "Solar Energy System" means the components and subsystems required to convert solar energy into electric energy suitable for use and storage. The term includes, but *is* not limited to, solar panels and solar energy equipment The area

of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment.

e. "Solar Energy System Emergency" means a condition or situation at a Solar Energy System that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to Solar Energy System Facilities.

f. "Solar Farm" means the use of land where a series of one or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one or more solar collectors placed in an area on a parcel of land collectively has nameplate generation capacity of more than 25 kW alternating current ("AC") or more when operating at maximum efficiency for the purpose of off-site sale, usage, and/or consumption. The term solar farm shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating or generating electricity for a residential property. The term solar farm shall not be construed in such a way as to prohibit the installation or mounting of a series of one or more solar collectors upon the roofs of residential and/or commercial structures regardless of whether said series of one or more solar collectors collectively has a total nameplate generation more than 25kW AC when operating at maximum efficiency.

g. "Solar Panel" means a photovoltaic device capable of collecting and converting solar energy into electrical energy.

h. "Solar Thermal System" means a solar energy system that utilizes solar energy solely to heat water.

i. "Solar Storage Unit" means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

Sec. 13-19-5 - APPLICATION PROCEDURE

A. Permits Required

No Owner may construct a Solar Energy System within the Town of Big Bend or expand an existing or previously approved Solar Energy System within the Town of Big Bend without first obtaining required permits.

B. Reimbursement of Expenses

The Applicant shall reimburse the Town for all expenses incurred by the Town in conjunction with the review of an Application (including the fees of engineers, attorneys, planners, environmental specialists, and other consultants or experts retained by the Town).

C. Application and Notice

1. Prior to the filing of an Application with the Town regarding a Solar Energy System, the Owner shall meet with the Town of Big Bend Zoning Administrator to discuss the application and the permit process.

2. A Land Use and Building permit is required for all Solar Energy Systems. Each Application for approval of Solar Energy System shall be filed with the Town Clerk and shall contain the following information:

   a. To-scale horizontal and vertical elevation drawings signed by a professional engineer or registered architect. The drawings must show the location of the system on the building or on the property for a ground-mounted system, including the property lines.

      (1) Pitched Roof Mounted Solar Energy Systems: For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted. Solar Panels on pitched roofs must be mounted at the same angle as the roof's surface with a maximum distance of eight inches between the roof and highest edge of system and not extend beyond the highest point of the roof system.

      (2) Flat Roof Mounted Solar Energy Systems: For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

   b. Technical description of solar panels and solar panel sites, including equipment specification sheets that document all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.

   c. Timeline and process for constructing the Solar Energy System.

   d. Property operations and maintenance plan. Such plan shall describe continuing photovoltaic maintenance property upkeep, such as mowing and trimming.

   e. Information regarding anticipated impact of the Solar Energy System on local infrastructure.

   f. Information regarding anticipated Glare attributable to the Solar Energy System.

g. Information regarding anticipated effects of the Solar Energy System on airports and airspace.

h. A list of all state and federal permits required to construct and operate the Solar Energy System.

i. Information regarding the planned use and modification of roads within the Town during the construction, operation, and Decommissioning of the Solar Energy System, including a process for assessing road damage caused by the Solar Energy System activities and for conducting road repairs at the Owner's expense.

j. A Decommissioning site restoration plan providing reasonable assurances that the Owner will be able to comply with VI.

k. A representative copy of all notices issued under this Section V.

L Any other information necessary to understand the construction, operation, or Decommissioning of the proposed Solar Energy System.

3. A conditional use permit is required for all Large-Scale Solar Energy Systems and Solar Farms. On the same day that an Application for a Large-Scale Solar Energy Systems or Solar Farms is filed with the Town Clerk, the Applicant shall mail or deliver written notice of the Application to the owners of land adjoining the site where the Applicant plans to install a Solar Energy System and the owners and residents of parcels adjacent to the proposed Solar Energy System.

Sec. 13-19-6 - PERMITTED ACCESSORY USE

Solar Energy Systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements set forth below. Ground-Mounted Solar Energy Systems shall be an accessory building on lot or lots where there exists a primary structure. Solar Energy Systems that do not meet the following design standards will require a conditional use permit.

A. <u>Height</u>

Solar Energy Systems must meet the following height requirements:

1. Building-Integrated or Roof-Mounted Solar Energy Systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, Solar Energy Systems other than Building-Integrated Solar Energy Systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.

2. Ground-Mounted Solar Energy Systems shall not exceed 15 feet in height when oriented at maximum tilt.

B. Setback

Solar Energy Systems must meet the accessory structure setback for the zoning district and primary land use associated with the property on which the system is located, except as allowed below:

1. Building-Integrated or Roof-Mounted Solar Energy Systems - the collector surface and mounting devices for Roof-Mounted Solar Energy Systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar Collectors mounted on the sides of buildings and serving as awnings are considered to be Building-Integrated Systems and are regulated as awnings.

2 Ground-Mounted Solar Energy Systems - the Solar Collector may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

C. Visibility

Solar Energy Systems in residential districts shall be designed to minimize visual impacts from the public from the public right-of-way, to the extent that doing so does not affect the cost or efficacy of the system, consistent with Wis. Stat §66.0401.

1. Building-Integrated Solar Energy Systems - it is anticipated that Building-Integrated Solar Energy Systems shall be visible from the public right-of-way, but must still meet all required setbacks, land uses, or performance standards for the district in which the building is located.

2. Aesthetic Restrictions - Roof-Mounted or Ground-Mounted Solar Energy Systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public-right-of-way other than an alley, or if the system meets the following standards:

   a. Roof-Mounted Solar Energy Systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten (10) inches above the roof.

   b. Roof-Mounted Solar Energy Systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.

3. Reflectors - All Solar Energy Systems using a reflector to enhance solar production shall minimize Glare from the reflector affecting adjacent or nearby properties.

D. Lot Coverage

Ground-Mounted Solar Energy Systems total collector area shall not exceed half the building footprint of the principal structure, if applicable.

1. Ground-Mounted Solar Energy Systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted, and the system area is less than one acre in size.

2. Ground-Mounted Solar Energy Systems shall not count toward accessory structure limitations.

3. Solar carports in non-residential districts are exempt from lot coverage limits.

E. Approved Solar Components

Electric Solar Energy System components must have a UL or equivalent listing and solar hot water systems must have an ICC Evaluation Service Solar Rating & Certification Corporation rating.

F. Compliance with Building Code

All Solar Energy Systems shall meet approval of local building code officials, consistent with the State of Wisconsin Building Code, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.

G. Compliance with State Electric Code

All Photovoltaic Systems shall comply with the Wisconsin State Electric Code.

H. Compliance with State Plumbing Code

Solar Thermal Systems shall comply with the applicable Wisconsin state Plumbing Code requirements.

L Utility Notification

All grid-intertie Solar Energy Systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

Sec. 13-19-7 - PRINCIPAL USES

A. Principal Uses

The Town of Big Bend encourages the development of Community-Scale Solar Energy Systems where such systems present few land-use conflicts with current and future development patterns. Ground-Mounted Solar Energy Systems that are the

principal use on the development lot or lots are conditional uses in all districts.

B. Principal Use General Standards

1. Site Design

a. Setbacks- Community-Scale and Large-Scale Solar Energy Systems must meet the following setbacks:

(1) Property line setbacks for buildings or structures in the district in which the system is located.

(2) Roadway setback of 150 feet from the Right-of-way centerline of state and county highways, 100 feet for Town roads.

(3) Housing unit setback of 150 feet from any existing dwelling unit or more if set forth in this Zoning Ordinance.

(4) Setback distance should be measured from the edge of the Solar Energy System array, excluding security fencing, screening, or berm.

b. Screening - Community-Scale and Large-Scale Solar Energy Systems shall be screened from existing Residences.

(1) A screening plan shall be submitted identifying the type and extent of screening.

(2) screening shall not be required along property lines within the same zoning district, except where the adjoining lot has an existing Residence.

(3) The Town may require screening where it determines there is clear community interest in maintaining a viewshed.

c. Ground cover and buffer areas - the following provisions shall apply to the clearing of existing vegetation and establishment of vegetated ground cover:

(1) Large-scale removal of mature trees on the site is discouraged; Owners shall take all reasonable steps to preserve mature trees.

(2) Applicant shall submit a vegetative management plan prepared by a qualified professional or reviewed and approved by a natural resource agency or authority, such as the Wisconsin Department of Natural Resources, County Land Conservation Department, or Natural Resource Conservation Service. The plan shall identify:

i. The natural resource professionals consulted or responsible for the plan.

ii The conservation, habitat, eco-system, or agricultural goals, which may include: providing habitat for pollinators such as bees and monarch butterflies, providing habitat for wildlife such as upland nesting birds and other wildlife, establishing vegetation for livestock grazing, reducing on-site soil erosion, and improving or protecting surface or ground-water quality.

iii. The intended mix of vegetation upon establishment

iv. The management methods and schedules for how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three years.

(3) Soils shall be planted and maintained in perennial vegetation for the full operational life of the project, to prevent erosion, mange runoff and build soil.

(4) Vegetative cover should include a mix of perennial grasses and wildflowers that will preferably result in a short stature prairie with a diversity of £orbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening. Perennial vegetation (grasses and forbs) are preferably native to Wisconsin, but where appropriate to the vegetative management plan goals, may also include other naturalized and non-invasive species which provide habitat for pollinators and wildlife and/or other ecosystem services (i.e. clovers).

(5) Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.

d. Foundations - a qualified engineer shall certify that the foundation and design of the Solar Panel racking and support is within accepted professional standards, given local soil and climate conditions.

e. Power and communication lines - power and communication lines running between banks of Solar Panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Town in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Town Board.

2. Stormwater and NPDES

Solar farms are subject to the Rusk County Stormwater Management and Erosion Control Ordinance and NPDES (National Pollutant Discharge Elimination System) permit requirements.

3. Compliance

All Solar Farms shall be in compliance with all applicable local, state, and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended, and the National Electric Code, as amended.

4. Site Plan Required

The applicant shall submit a detailed site plan for both existing and proposed conditions, showing locations of all solar arrays, other structures, property lines, right-of-way, service roads, floodplains, wetlands, and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Town. This site plan shall show all zoning districts and overlay districts.

5. Aviation Protection

For Solar Farms located within approach zones of an airport, the Applicant must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration ("FAA'1 Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

6. Agricultural Protection

Solar Farms must comply with site assessment or soil identification standards that are intended to identify agricultural soils. The Town may require mitigation for use of prime soils for solar array placement, including the following:

a. Demonstrating co-location of agricultural uses (agrivoltaics) on the project site.

b. The site shall be restored to agriculture at the end of life of the solar installment.

c. Placing agricultural conservation easements on an equivalent number of prime soils acres adjacent to or surrounding the project site.

d. Locating the project in a wellhead protection area for the purpose of removing agricultural uses from high-risk recharge areas.

7. Decommissioning

A. Decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

a. Decommissioning of the Solar Energy System must occur in the event the project is not in use for 12 consecutive months.

b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and assurances that financial resources will be available to fully decommission the site.

c. The Town may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper Decommissioning.

C. Community-Scale Solar Energy Systems

The Town permits the development of Community-Scale Solar Energy Systems, subject to the following standards and requirements:

1. Rooftop gardens permitted - rooftop Community-Scale Solar Energy Systems are permitted in all districts where buildings are permitted.

2. Community-scale uses - Ground-Mounted Community-Scale Solar Energy Systems must cover no more than one (1) acre, and are a permitted use in industrial and agricultural districts, and permitted with standards or conditional in all other non-residential districts. Ground-Mounted Solar Energy Systems covering more than one (1) acre shall be considered Large-Scale Solar Energy Systems.

3. Dimensional standards - all structures must comply with s backs and height standards for the district in which the system is located.

4. Other standards - Ground-Mounted Solar Energy Systems must comply with all required standards for structures in the district in which the system is located.

D. Large-Scale Solar Energy Systems

Ground-Mounted Solar Energy Systems that are the primary use on the Participating Property, designed for providing energy to off-site uses or export to the wholesale market, are conditional uses in agricultural districts, industrial districts, shoreland and floodplain overlay districts, and in the 1andfill/brownfield overlay district for sites that have completed remediation.

Sec. 13-19-8 - PENALTIES AND ENFORCEMENT

Any person who violates any of the prohibitions, restrictions and requirements set forth in this Ordinance or any conditions established under a permit issued under this Ordinance shall be in violation of this Ordinance. May be subject to a penalty as set forth in the current Fee Schedule.

Title 13 ► Chapter 20

Boathouse Construction

13-20-1	Purpose
13-20-2	Authority
13-20-3	Definition
13-20-4	Permit
13-20-5	Boathouse Location, Design and Construction Requirements
13-20-6	Enforcement
13-20-7	Penalties
13-20-8	Severability

Sec. 13-20-1 Purpose.

The purpose of this ordinance is for the Town of Big Bend to regulate by permit the construction of boathouses in the Town of Big Bend.

Sec. 13-20-2 Authority.

The Town Board of the Town of Big Bend has the specific authority under Sec. 175.25, Wis. Stats., and general authority under its village powers under Sec. 60.22, Wis. Stats., to adopt this ordinance. Includes any construction on or after effective date of January 19 2026 of this ordinance.

Sec. 13-20-3 Definition.

Definition from Wis. Admin. Code NR 115.03(1h):
"Boathouse" means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
"Viewing and Access Corridor" means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

Sec. 13-20-4 Permit.

A Rusk County Zoning Shoreland Land Use Permit from the County and a Town of Big Bend Building Permit from the Town are required. Boathouses are exempt from shoreline setback requirements. Erosion Control measures shall be used during construction to minimize erosion and limit run-off. Fees apply: See **Town of Big Bend Fee Schedule, Ordinance 1-3-1 Fee Schedule**.

NOTE: The issuance of a land use and a building permit does not include the approval of a structural boat ramp, rail system, or the like. Ramps and rail systems shall be approved separately by the Wisconsin Department of Natural Resources.

Sec. 13-20-5 Boathouse Location, Design and Construction Requirements.

(a) Only one boathouse per buildable lot and it shall not be the first structure on the lot.

(b) The standards for removal of shoreline vegetation shall be complied according to the **General Code of Rusk County Sec. 50-189. Vegetation Standards** and the structure shall be located entirely within the viewing and access corridor. The structure shall be set back a minimum of four feet from and one foot above the ordinary high-water mark (OHWM).

(c) Construction shall require a map of survey to demonstrate the location of the proposed structure along with floodplain information and all required setbacks including at least 5 feet from side lot line.

(d) Boathouses shall not be constructed into an existing slope of more than 45%.

(e) The structure shall not exceed 400 square feet in size (outside dimension).

(f) The width of the structure, parallel to the shoreline, to length ratio shall not exceed 1:3 (i.e. 10ft by 30ft).

(g) The structure shall have a gabled roof with a pitch that equals or exceeds a 4/12 (rise to run) pitch and shall not be designed or used as a deck, observation platform or similar uses.

(h) The structure shall only be a single story with a wall height not to exceed 10 feet.

(i) The structure shall have no attached or detached decks, patios, screened areas or walkways.

(j) For any walls at ground level or above the structure framing shall only be built out of wood.

(k) The structure shall not contain any plumbing or heating components, cooking facilities, fireplaces, or patio doors and shall not be used for human habitation or occupancy.

(l) The structure shall have a water body facing garage-type door at least 7 feet wide.

(m) The structure may contain up to one service door no greater than 36 inches in width.

(n) The structure may contain a maximum of 10 square feet of window surface on each of the three sides not located on the water body. No windows are allowed on the water body side nor on the roof of the structure.

(o) The siding and roofing color schemes shall be muted and non-reflective earth tones.

Sec. 13-20-6 Enforcement.

The boathouse shall be inspected by the Big Bend Zoning Administrator and Town UDC Inspector.

Sec. 13-20-7 Penalties.

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture as per the Town Fee Schedule plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

Sec. 13-20-8 Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Title 13 ► Chapter 21

Concentrated Animal Feeding Operations

13-21-1 Purpose
13-21-2 Authority
13-21-3 Definitions
13-21-4 License Requirement
13-21-5 Licensing Administration
13-21-6 License Application and Standards
13-21-7 License Application Fee
13-21-8 Application Procedure
13-21-9 Financial Surety
13-21-10 Conditions of Approval
13-21-11 Record of Decision
13-21-12 Transferability of License
13-21-13 Expiration of License
13-21-14 Permit Terms and Modifications
13-21-15 Penalties
13-21-16 Appeals
13-21-17 Severability

Sec. 13-21-1 Purpose

The purpose of this Ordinance is to effectively, efficiently and comprehensively regulate the operation of Large-Scale Concentrated Animal Feeding Operations of 500 animal units or greater ("CAFO") in the Town of Big Bend, without respect to siting, to protect public health (including human and animal health), safety, and general welfare, to prevent pollution and the creation of private nuisances and public nuisances, and to preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town of Big Bend and to achieve water quality standards within the Town of Big Bend. This Ordinance sets forth the procedures for obtaining a CAFO Operations Permit for the operation of new and expanded livestock facilities in the Town of Big Bend (sometimes referred to as "the Town").

The need for this Ordinance is based upon the Town's obligation to protect the health, safety, and general welfare of the public and is based upon reasonable and scientifically defensible findings, as adopted by the Town Board, clearly showing that these requirements are absolutely necessary to protect public health and safety. Specifically, the Town finds that there is ample scientific research and evidence establishing that CAFOs pose a significant risk to the integrity of the Town's groundwater, surface water, air quality, the health and well-being of its residents and local property values. These findings are based in part on the scientific articles and research studies discussed and listed in Appendices A. &

B. Section

Sec. 13-21-2 Authority

This Ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to § 92.15. This Ordinance is further adopted pursuant to the powers granted to the Town Board under the grant of village powers pursuant to §60.22 of Wis. Statutes for the protection of public health, safety, and general welfare.

Sec. 13-21-3 Definitions

A. **"Applicant" or "permittee"** refer to the entity seeking a CAFO operations Permit under the terms of this Ordinance.

B. **"Large-Scale Concentrated Animal Feeding Operation" or "CAFO"** means: A lot or facility, other than a pasture or grazing area, where 500 or more animal units, as calculated from the Wisconsin DNR's Animal Unit Calculation Worksheet, have been, are, or will be stabled or concentrated, and will be fed or maintained by the same owner(s), manager(s) or operator(s) for a total of 45 days or more in any 12-month period. Two or more smaller lots or facilities under common ownership or common management or operation are a single Large- Scale Concentrated Animal Feeding Operation or CAFO if the total number of animals stabled or concentrated at the lots or facilities equal 500 or more animal units and at least one of the following is true: (1) The operations are adjacent; (2) The operations utilize common systems for the land spreading of manure or wastes; (3) Animals are transferred between the lots or facilities; (4) The lots or facilities share staff, vehicles, or equipment; or (5) Manure, barnyard runoff or other wastes are comingled in a common storage facility at any time.

a. Any lot or any facility, regardless of location that meets the definition of Section 3.2.a. and uses land in the Town to manage waste.

C. "Operations" means a course of procedure or productive activity for purposes of conducting and carrying on the business of a CAFO including populating animal housing facilities, storing, and managing animal and other waste materials, and conducting any other business activities.

D. "Pollution" means degradation that results in any violation of any environmental law as determined by an administrative proceeding, civil action, criminal action or other legal or administrative action investigation or proceeding.

E. "Private Nuisance" means a non-trespassory invasion of another's interest in the private use and enjoyment of land, and the invasion is either: (1) intentional and unreasonable, or (2) unintentional and otherwise actionable under the rules of controlling liability for negligent or reckless conduct, or for abnormally

dangerous conditions or activities.

F. "Public Nuisance" means a thing, act, occupation, condition or use of property which shall continue for such length of time as to " (1) substantially annoy, injure or endanger the comfort, health, repose or safety of the public; (2) in any way render the public insecure in life, health or in the use of property; or (3) unreasonably and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage or public use any street, alley, highway, navigable body of water or other public way or the use of public property or other public rights.

Sec. 13 21-4 License Required

Regardless of siting, a livestock facility with 500 or more animal units shall be allowed to conduct operations within the Town of Big Bend only as provided under this Ordinance.

Applicants shall apply for a CAFO Operations Permit to operate in the Town of Big Bend under this Ordinance prior to conducting any operations.

1. General
   A CAFO Operations Permit issued by the Town of Big Bend is required for new or expanded livestock facilities that will operate with 500 or more animal units.

2. Licenses for Existing Livestock Facilities
   Notwithstanding Sec. 12-13-21-4(1) above, enforcement of this ordinance will be suspended for a period of three years for those livestock facilities with 500 or more animal units lawfully operating within the Town upon the date of the enactment of this ordinance.

Sec. 13-21-5 Licensing Administration

The Town Board shall administer this Ordinance and related matters thereto and shall have the authority to issues licenses under this Ordinance, and to designate the local authority/ies to whom the Operator is required to submit all reports and notices and shall have the authority to enforce the license requirements, including immediate revocation of the license for flagrant violations.

Sec. 13-21-6 License Application and Standards

The applicant shall apply for a CAFO Operations Permit prior to conducting any operations associated with a Large-Scale Concentrated Animal Feeding Operation in the Town of Big Bend. The application shall be submitted on a form provided by the Town Clerk.

The Town Board shall decide whether to approve and issue a CAFO Operations Permit to an applicant that has submitted a complete application and paid the required application fee, after holding a public hearing on the application and considering any evidence concerning the application and the proposed operation presented by the applicant and any other interested persons or parties, including members of the public, other governmental agencies or entities, special legal counsel

and expert consultants who may be hired by the Town Board to review the application and advise the Town Board.

The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it is determined by a majority vote of all members, supported by clear and convincing evidence presented by the applicant, that: the applicant can and will comply with all conditions imposed by the Town; that the applicant's operations as proposed, with or without conditions, will protect public health (including human and animal health), safety, and general welfare, prevent pollution, prevent the creation of private nuisances, prevent the creation of public nuisances and preserve the quality of life, environment, existing small-scale livestock and other agricultural operations of the Town of Big Bend; and that the applicant and the application meet all other requirements of this Ordinance.

Sec. 13-21-7 License Application Fee

eA non-refundable application fee of One Dollar ($1.00) per proposed animal unit payable to the Town of Big Bend shall accompany an application for the purpose of offsetting the Town costs to review and process the application.

Sec. 13-21-8 Application Procedure

1. An applicant for a CAFO Operations Permit shall complete a Town of Big Bend CAFO Operations Permit Application and pay the required application fee. The applicant must be an owner or officer of the corporate entity proposing to operate the CAFO and sign the application. The application must also be signed by the property owner, who agrees to be held by the same standards as the operator, and by one or more qualified and professionally licensed third-party engineers or geoscientists who attest that they have prepared or have reviewed the plans and certify that they will meet the following performance requirements:

a. Prevent the spread of infectious diseases from the CAFO to other animals, livestock and humans;

b. The CAFO Waste Management Plan as implemented with engineered perimeter berms and liners, or equivalent or better containment measures, will prevent any obnoxious odors emanating from waste management activities, any discharge of contaminated runoff to surface water, and any seepage to ground water, including impacts to surface water and ground water from offsite management or disposal of animal wastes and that the CAFO has applied for and will not operate until it has received a zero-discharge permit from the State, or in absence of action by the State, from the Town, a local zero discharge waste water and storm water permit(s);

c. The Animal Population Control and Depopulation Plans provide for the daily recording and reporting of animal counts and mortality and reporting to the Town-designated local authority within 24 hours of any unusual mortality, as defined in the plan, and that the provisions for managing the movement and transportation of livestock, containment and treatment of bodily fluids from carcasses, and safe

disposal of carcasses, will prevent the spread of disease to other livestock, animals, workers and other residents and humans in the area;

d. The Biosecurity and Animal Health Plan provides for the health and humane treatment of all animals, routine observation and routine testing for diseases of concern (as defined in the plan), and for the separation and quarantine of diseased animals and animals in contact with diseased animals, their euthanasia, and the handling and disposal of diseased animals, sufficient to prevent the spread of disease to workers, other livestock and animals and to humans and provides for quarterly reporting of animal testing results and plan-specified enforceable metrics confirmation that the livestock and conditions at the facility, based on plan-identified metrics, are healthy by a third-party inspector and that any deviations from the metrics and any detection of diseases of concern will be immediately reported to the local health department and local authority; and that the plan provides for adequate financing and immediate implementation of emergency containment measures by third- party contractors, including testing of workers and contractors who may have come into contact with diseased animals, and other emergency measures in the event of an outbreak of disease, based on the latest authoritative disease containment guidance;

e. The Animal Transportation Plan, in combination with the biosecurity and animal health plans, will provide for the safe transportation of all livestock to and from the CAFO, the disinfection of transport trailers and treatment of water used to disinfect trailers, the prevention of disease, and provide for coordination with local traffic and road authorities to assure their safe transport and prevent traffic accidents and to provide the necessary emergency response measures in the event of an accident;

f. The Water Use Plan is based on a thorough hydrogeologic characterization study, including identification of all onsite and nearby wells and springs, and artesian fed streams and water bodies (including ponds, wetlands, and lakes) within 5 miles, and that the planned use of water will have no impact, considering projected 50-year growth of population in the area, on the flow rate, extent, volume and storage capacity for any existing well or spring, or artesian fed water body within 2 miles of the CAFO and the quarterly reporting of water use to the local authority or their designated hydrogeologist;

g. The Odor and Toxic Air Pollution Prevention Plan will prevent the presence of odiferous smells noticeable to human olfactories and the detection of toxic air pollutants along the property boundaries and provides for adequate offsets, waste containment, air and odor emission control devices including particulate filters to prevent air pollution and the transmission of disease particles from the CAFO or offsite waste management area;

h. The Community Economic, Land Use and Property Value Assessment and Impact Study has been performed by a licensed appraiser and a qualified land use planner, is scientifically sound and concludes that there will be no negative impact to properties within 3 miles of the proposed CAFO, and a net positive benefit to the Town, including considering the risks of the operations on

the public health;

i. The Construction, Fire and Road Plans, including signed engineered drawings for the measures required to meet the performance requirements of this ordinance and the measures specified in the plan have been submitted with the application, and include a fire prevention/fire-fighting capacity/fire-water capacity needs analysis and the requisite fire water storage/fire prevention/fire-fighting equipment plans, as well as a traffic study and road improvement needs analysis and road traffic and roadway improvement plans, along with letters of conformance, on agency letterhead, stating that application-submitted plans are complementary with and are in conformance with the associated traffic and road plans and requirements of and from the local, regional, state and federal road and transportation authorities; The Compliance Assurance Testing, Sampling and Monitoring Plan shall provide for an identified chain-of-command, including local authority incident commanders, for the reporting and correction, including emergency measures, of any and all deviation(s) from the plan's enforceable metrics, as well as the daily monitoring of all operations for compliance with the enforceable metrics identified in the plan, including inspection and sampling of storm water discharges, quarterly ground water monitoring at locations that will allow corrective actions and containment measures to prevent offsite migration or vertical migration of contamination, identification and verification of the efficacy of testing methods and quality assurance reviews of test results, and reporting within 24 hours of any and all deviations from compliance metrics to the owner, the third-party corrective measures contractor, and the local authorities identified in the local permit;

j. The Compliance Assurance Testing, Sampling and Monitoring Plan shall provide for an identified chain-of-command, including local authority incident commanders, for the reporting and correction, including emergency measures, of any and all deviation(s) from the plan's enforceable metrics, as well as the daily monitoring of all operations for compliance with the enforceable metrics identified in the plan, including inspection and sampling of storm water discharges, quarterly ground water monitoring at locations that will allow corrective actions and containment measures to prevent offsite migration or vertical migration of contamination, identification and verification of the efficacy of testing methods and quality assurance reviews of test results, and reporting within 24 hours of any and all deviations from compliance metrics to the owner, the third-party corrective measures contractor, and the local authorities identified in the local permit;

k. The Compliance Assurance Plan shall document that the prepared plans and procedures are based on sound science and includes an updated review of best practices and technologies and test methods, and provides for specific compliance metrics to assure the performance requirements of the plans are met and the permit approval conditions are satisfied, and for annual audits, inspections, and certification by qualified and experienced, and licensed third party(ies), of compliance with the procedures and provisions of the various operational plans, including with the identified metrics in the plans;

l. The Closure/Cleanup/Decommissioning and Site Restoration Plan shall be

sealed by a licensed engineer and based on engineering estimates of the typical cost to address the contamination of ground water within a quarter-mile radius, the replacement cost for any wells or water supplies within a quarter mile, the remediation cost for 1/2 mile of the sediment of a receiving stream, and the complete and timely removal, closure and restoration of the subject facility to approximate its original condition, including demolition based on a site-specific closure plan and removal of all manure, chemical waste or other hazardous materials, assuming 1 foot of affected soil below all ponds, tanks and animal holding areas, including a reasonable contingency based upon the uncertainty in the estimate as identified by the engineer.

2. Upon signing and submitting a CAFO Operations Permit Application to the Town Clerk, the applicant shall include and sign a statement that the applicant agrees to fully compensate the Town for all legal services, expert consulting services, and other expenses which may be reasonably incurred by the Town in reviewing and considering the application, regardless of whether or not the application for a permit is subsequently approved, with or without conditions, or denied by the Town Board. The applicant statement shall also state that the applicant agrees to fully compensate the Town for all legal services, expert consulting services and other expenses, for verifying and enforcing compliance with the terms of the permit, with or without conditions, if approved by the Town Board. The applicant shall submit an administrative fee deposit as required by the Town Clerk.

3. After receiving the application and the application fee, the Town Clerk shall mail a notice that a CAFO Operations Permit Application has been received to all landowners within three miles of the proposed CAFO with the date and time of a Town Board meeting at which the application will be considered. The notice shall provide information on how interested persons and parties may inspect and obtain a copy of the application.

4. The Town Clerk shall place the application on the agenda for the next regular Town Board meeting for which required notice can be provided.

5. At a formal public hearing held by the Town Board on the application at least sixty (60) days after it has been determined to be complete, the Town Board shall consider any evidence concerning the application and the proposed CAFO presented by the applicant and any other interested persons or parties, including members of the public and other governmental agencies or entities, and special legal counsel and expert consultants who may be hired by the Town to review the application and advise the Town Board.

6. In its review and consideration of a CAFO Operations Permit Application, the Town Board shall act in a quasi-judicial capacity, and its final decision on whether to approve and issue a CAFO Operations Permit, either with or without conditions, shall be based on written findings of fact and conclusions of law consistent with the provisions of this Ordinance, which shall be filed with the Town Clerk and served on the applicant by regular U.S. Mail.

7. The Town Board shall approve and issue a CAFO Operations Permit, either with or without conditions, if it determines by a majority vote of all members of the Town

Board, supported by clear and convincing evidence presented by the applicant, that the operations of the proposed CAFO, with or without conditions, will protect health (including human and animal), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town and that the application meets all other requirements of this Ordinance.

Sec. 13-21-9 Financial Surety

A CAFO Operations Permit shall require the applicant and all contractors, subcontractors, agents, and representatives, to ensure that sufficient funds will be available for pollution clean-up, nuisance abatement, and proper closure of the operation if it is abandoned or otherwise ceases to operate as planned and permitted, based on the following provisions:

1. A determination shall be made regarding the financial assurance level required by the scale of the operation. As a condition of the license, the required financial assurance shall be filed with the Town of Big Bend in an amount sufficient to clean up environmental contamination if the same were to occur, to abate public nuisances caused by the operation, including but not limited to the testing and replacement of any potentially contaminated private and public wells and water supplies within the areas subject to operations, and to ensure proper closure of the operations should the applicant elect to close or should closure occur for some other reason. The amount of the financial assurance shall be based on a Closure/Cleanup/Decommissioning and Site Restoration Plan, sealed by a licensed engineer, and based on engineering estimates of the typical cost to address the contamination of ground water within a quarter-mile radius, the replacement cost for any wells or water supplies within a quarter mile, the remediation cost for 1/2 mile of the sediment of a receiving stream, and the complete removal, closure and restoration of the subject facility to approximate its original condition, including demolition based on a site-specific closure plan, assuming 1 foot of affected soil below all ponds, tanks and animal holding areas, including a reasonable contingency based upon the uncertainty in the estimate as identified by the engineer. Upon notification of the required amount of the financial assurance by the Town, but prior to commencing operations, the applicant shall file with the Town the financial assurance conditioned on faithful performance of all requirements for the license. Upon notification of receipt of adequate form of finance assurance (as noted below) or deposit approval and verification of conformance with license conditions as verified by a third-party engineer, the applicant may commence operations.

2. The applicant may deposit cash or irrevocable letters of credit established with a bank acceptable to the Town as the required financial assurance.

3. The Town may reevaluate and adjust accordingly the amount of financial assurance required on an annual basis.

4. Financial assurance shall be resubmitted by the applicant annually on or before the date of the originally approved application.

5. A Performance Bond obligation. The amount determined will be required

with the application in the amount specified in the current Town Fee Schedule.

Section 10. Conditions of Approval

A CAFO Operations Permit may be approved with conditions to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town. To the extent not expressly or otherwise preempted by Wis. Stat. §93.90, and Wis.
Admin. Code Ch. ATCP 51 or any other provision of state or federal law, such conditions may include, but are not limited to:

1. Conditions relating to the operational characteristics of the proposed operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances; including provisions for specific air emissions controls, retention ponds and berms to prevent releases to surface water, liners under operational areas to prevent infiltration to ground water, the annual testing of nearby wells and springs, and annual inspections for permit compliance by representatives of local authorities;

2. Conditions relating to the management of animal and other waste that may be generated as part of an operation's ongoing operation, to protect public health, prevent point and non-point sources of air and water pollution, and prevent private nuisances and public nuisances, including the operator's paying for periodic inspections and air emission, surface water, and ground water testing by consultants retained by local authorities, including the following added provisions:

a. The Waste Management Plan in Section 13-21-8.1.b. will include scientifically significant baseline data on the water quality of local human drinking and agricultural wells.

b. For applications that include land spreading of manure,

i. the amount of land used to spread waste as part of the Waste Management Plan in Section 13-21-8.1.b. will be based on spreadable acres, not total acres, and

ii. the application will include all Manure Land Application Agreements, with a minimum contract period of five (5) years, and such agreements must include provisions for application of waste in accord with the Waste Management Plan required in Section 13-21-88. 1. b.

3. Conditions relating to the population and depopulation of individual animal housing facilities, to protect public health and prevent the spread of animal-borne and vector-borne disease, to assure a safe level of sanitation, and to assure human health hazard control or health protection for the community, including provisions for health department inspections and testing of dead animals and provisions for the safe treatment and off-site disposal of sanitation wastes at a separately permitted

commercial facility;

4. Conditions relating to biosecurity and the maintenance of animal health and welfare, to prevent the spread of animal-borne and vector-borne disease, to protect public health, and provide for animal safety and welfare, including provisions for frequent testing of livestock for specific diseases of concern and development of emergency containment measures in the event of the detection of a disease of particular concern;

5. Conditions relating to transportation of animals as part of the ongoing operations, to protect public health, prevent pollution, and prevent private nuisances and public nuisances, including completion of a traffic and transportation needs analysis and applicant's paying for traffic control and roadway improvements, including provisions for high-pressure washing with disinfectant of all transport trailers coming into the Town to include treatment and disposal of water used for disinfectant;

6. Conditions relating to protection of private and public drinking and agricultural wells, and other public water supplies, as part of an ongoing operation to protect public health, prevent pollution, and prevent private nuisances and public nuisances, including provisions for completing a thorough survey and mapping of private and public wells and springs and artesian fed water bodies, including wetlands, as well as a thorough hydrogeologic characterization of ground water within 5 miles of the proposed CAFO;

7. Conditions relating to air emissions and dust control as part of an ongoing operation, to protect public health, prevent pollution and prevent private nuisances and public nuisances, including provisions for property boundary offsets, air emission and air quality testing and for specific types of air emission controls on all facility exhaust fans, waste management areas, and livestock quarantine holding areas;

8. Conditions relating to protection of the private and public property rights and property values of affected property owners, as part of an ongoing operation, to protect the general welfare of the Town's residents and property owners, and to prevent private nuisances and public nuisances;

9. Conditions relating to permit compliance, enforcement and monitoring, including establishment of fees that may be assessed against the permittee to cover the costs of hiring, training, and maintaining Town personnel, or for contracting with private consultants, to conduct permit compliance, enforcement and monitoring activities for the Town, as well as provisions for annual certification of compliance by the owner/operator and by qualified and licensed third-party auditor, approved by the Town;

10. Conditions relating to the monitoring of surface water, ground water, air quality, noise, and all other environmental factors and considerations, including retention pond sampling and testing and ground water quality monitoring at compliance points sufficiently far from the facility's property line to allow implementation of

prevention of offsite migration corrective action and containment measures acceptable to the Town;

11. Any other conditions deemed reasonably necessary or appropriate by the Town Board to effectively, efficiently, and comprehensively regulate the operations of a facility, to protect public health (including human and animal health), safety, and general welfare, prevent pollution and the creation of private nuisances and public nuisances, and preserve the quality of life, environment, and existing small-scale livestock and other agricultural operations of the Town, including provisions for adequate fire-fighting equipment and storage of adequate fire-fighting water based on a needs analysis approved by the Town and a Fire Safety Needs Analysis Plan that is annually reviewed and updated based on the following:

a. Guidelines from the National Fire Protection Association NFPA 1141: Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas;

b. Water Supply Needs Analysis based on guidelines included in NFPA 1142: Standard on Water Supplies for Suburban and Rural Fire Fighting;

c. Wildlands Fire Analysis based on NFPA1144: Standard for Reducing Structure Ignition Hazards and Wildland Fires;

d. Animal Housing Analysis based on NFPA 150: Fire and Life Safety in Animal Housing Facilities Code.

These conditions may apply not only to the CAFO facility itself, but also to any property upon which manure, carcasses, body tissue or other by products of the CAFO are spread, deposited, or disposed of. Any conditions imposed under this Ordinance may be modified by the Town Board at the time of each annual renewal. Any modifications must be documented as required by section 11, below.

Sec. 13-21-10 Record of Decision

The Town Board must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record.

Sec. 13-21-11 Transferability of License

A CAFO Operations Permit and the privileges granted by this license run with the operator, not the land. In the event of a change in ownership of the livestock facility, the new operator/owner of the facility will need to apply for a new license including the required fees. The license is not transferrable upon change of ownership of the land.

Upon change of ownership of the livestock facility, the owner of the facility shall file information with the Town Clerk within 30 days that such event occurs and provide pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

Sec. 13-21-12 Expiration of License

A CAFO Operations Permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under this permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Town may treat a CAFO Operations Permit as lapsed and withdraw the license if the license holder fails to do all of the following within 2 years after issuance of license:

1. Begin populating the CAFO.
2. Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
3. Pay the renewal fee on or before January 1 of each calendar year as required by Section 14 of this Ordinance.

Sec. 13-21-13 Permit Terms and Modifications

A CAFO Operations Permit and the privileges granted by a CAFO Operations 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 CAFO Operations Permit. The operator may make reasonable changes that maintain compliance with the standards in this Ordinance, and the Town Board shall not withhold authorization for those changes unless the Town can demonstrate good cause to do so.

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.

The Town Board, or its designee, shall work to ensure on an ongoing basis that all requirements and conditions of any permit issued under this Ordinance are followed by the permittee. The Town may request any information it finds reasonably necessary to evaluate whether requirements and conditions are being met and whether substantial changes or modifications to the operation have taken place, and the permittee shall provide such information. To assist in accomplishing this task, any permit issued pursuant to this Ordinance shall be subject to an annual renewal fee in the amount of One Dollar ($1.00) per animal unit. Modifications to the conditions of a CAFO Operations Permit may be made as described in Sections 10 and 11.

The license has a term of 5 years, so long as the permittee remits the annual renewal fee and may be renewed for additional 5-year periods if there are no substantial changes or modifications proposed in the CAFO's operations, including changes to the animal species or number of animals, and there have been no permit violations or compliance problems. If substantial changes or modifications are determined to have taken place or if there have been violations of the permit

conditions or requirements under the ordinance or under any state or federal requirements, the permittee shall have to reapply for an operations permit and follow all steps required under this ordinance.

Sec. 13-21-14 Penalties

Any person who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, or who knowingly makes any materially false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

1. Upon conviction by a court of law, pay a forfeiture of not less than $5000 and not more than $10,000, plus the applicable surcharges, assessments, and costs for each violation.
2. Second and subsequent violations requires forfeiture of not less than $5000.00.
3. Each day a violation exists or continues shall be considered a separate offense under this Ordinance.
4. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.
5. In addition, the Town Board may suspend or revoke the local approval of a CAFO Operations Permit under this Ordinance after due notice to the livestock facility owner and a public hearing to determine whether the license should be suspended or revoked. The Town shall exercise sound judgment in deciding whether to suspend or revoke a CAFO Operations Permit. The Town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

In addition to any other penalty imposed by this Ordinance, the cost of abatement of any public nuisance on the licensed premises by the Town may be collected under this Ordinance or §823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under §66.0627 of Wis. Statutes unless paid earlier.

Sec. 13-21-16 Appeals

An applicant or any other person or party who is aggrieved by a final decision of the Town Board on whether to issue a CAFO Operations Permit, either with or without conditions, or a taxpayer, may, within thirty (30) days after the filing of the decision with the Town Clerk, commence an action seeking the remedy available by certiorari in Rusk County Circuit Court. The court shall not stay the decision appealed from, but may, with notice to the Town Board, grant a restraining order. The Town Board shall

not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary, for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

In any certiorari proceeding brought under the preceding paragraph, attorney fees and costs shall not be allowed against the Town Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

A final decision of the Town Board under this ordinance is not subject to appeal under Wis. Stat. §93.90(5), Wis. Stat §93.30, or Wis. Admin Code Ch. ATCP 51, which apply only to siting decisions.

Sec. 13-21-17 Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this Ordinance are severable.

Sec. 13-21-18 Effective Date

This Ordinance is effective the day after publication.

TITLE 14

Subdivision and Platting

Chapter 1 **Land Division and Subdivision Code**

Title 14 ► Chapter 1

Land Division and Subdivision Code

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Article A: Adoption; Introduction

Sec. 14-1-1 Introduction and Purpose.

(a) **Introduction.** In accordance with the authority granted by Sec. 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes, the Town Board of the Town of Big Bend, Rusk County, Wisconsin, does hereby ordain as follows:

(1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town of Big Bend.

(2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.

(b) **Purpose.** The purpose of this Chapter is to promote the public health, safety, convenience and general welfare of the community. The regulations are designed to lessen congestion in the highways and streets; to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, protecting farming and open spaces, and providing for the most appropriate use of land in the Town of Big Bend.

State Law Reference: Chapter 236, Wis. Stats.

Sec. 14-1-2 Abrogation and Greater Restrictions.

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

Sec. 14-1-3 Interpretation.

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

Sec. 14-1-4 Severability.

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

Sec. 14-1-5 Conflict.

If any other provisions of ordinances of the Town are inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, this chapter shall govern.

Sec. 14-1-6 Title.

This Chapter shall be known as, referred to, or cited as the "Town of Big Bend Subdivision Ordinance" or "Town of Big Bend Land Division and Subdivision Ordinance."

Sec. 14-1-7throughSec. 14-1-9 Reserved for Future Use.

Article B: Definitions

Sec. 14-1-10 Definitions.

(a) The following definitions shall be applicable in this Chapter:

(1) ***Alley.*** A public right-of-way which normally affords a secondary means of vehicular access to abutting property.

(2) ***Arterial Street.*** A street which provides for the movement of relatively heavy traffic to, from or within the Town. It has a secondary function of providing access to abutting land.

(3) ***Block.*** An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.

(4) ***Collector Street.*** A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.

(5) ***Comprehensive Development Plan.*** A comprehensive plan prepared by the Town indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Town and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

(6) ***Cul-de-sac.*** A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.

(7) ***Division of Land.*** A land division, any division of land where one parcel is divided into two or more parcels, including a subdivision or minor subdivision.

(8) ***Easement.*** The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

(9) ***Extraterritorial Plat Approval Jurisdiction.*** The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.

(10) ***Final Plat.*** The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the Town of Big Bend and County Register of Deeds.

(11) ***Frontage Street.*** A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

(12) ***Improvement, Public.*** Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.

(13) ***Local Street.*** A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

(14) ***Lot.*** A parcel of land having frontage on a public street or other officially approved

means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.

(15) ***Lot, Area.*** The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.

(16) ***Lot, Corner.*** A lot abutting intersecting streets at their intersection.

(17) ***Lot, Reversed Corner.*** A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.

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

(19) ***Lot Lines.*** The peripheral boundaries of a lot as defined herein.

(20) ***Lot Width.*** The width of a parcel of land measured along the front building line.

(21) ***Major Thoroughfare.*** A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.

(22) ***Minor Street.*** A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."

(23) ***Minor Subdivision.*** The division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites.

(24) ***Owner.*** Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.

(25) ***Pedestrian Pathway.*** A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

(26) ***Plat.*** The map on which the subdivider's plat of subdivision is presented to the Town for approval.

(27) ***Preliminary Plat.*** The Preliminary Plat map indicating the proposed layout of the subdivision to be submitted to the Town Zoning Committee for their consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data.

(28) ***Protective Covenants.*** Contracts entered into between private parties, or between private parties and public bodies pursuant to Sec. 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

(29) ***Replat*** The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.

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

(31) ***Subdivider.*** Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat. Sometimes known as a developer.

(32) ***Subdivision.*** The division of a lot, outlot, parcel, or tract of land by the owner thereof or his/her agent for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of thirty- five (35) acres or less in area, or where the act of division creates five (5) or more parcels or building sites by successive division within a period of five (5) years, whether done by the original owner or a successor owner.

(33) ***Town.*** The Town of Big Bend, Rusk County, Wisconsin.

(34) ***Wetlands.*** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. (Sec. 23.32(1), Wis. Stats.)

(35) ***Wisconsin Administrative Code.*** The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Sec. 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

Sec. 14-1-11 through Sec. 14-1-19 Reserved for Future Use.

Article C: General Provisions

Sec. 14-1-20 General Provisions.

(a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, minor subdivision, land division or a replat as defined herein; no such subdivision, minor subdivision, land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:

(1) The provisions of Ch. 236, Wis. Stats.

(2) The rules of the Department of Safety and Professional Services, contained in Wis. Adm. Code Chapter SPS 383 for subdivisions not served by public sewer.

(3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter Trans 233 for subdivisions which abut a state trunk highway or connecting street.

(4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program.

(5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Town Board.

(6) All applicable Town and county regulations, including zoning, sanitary, building and official mapping ordinances.

(7) Applicable provisions of the Rusk County Zoning Code.

(8) All applicable rules contained in the Wisconsin Statutes or Administrative Code not listed in this Subsection.

(b) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Town of Big Bend. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:

(1) Transfers of interests in land by will or pursuant to court order;

(2) Leases for a term not to exceed ten (10) years, mortgages or easements;

(3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Chapter or other applicable laws or ordinances.

(c) **Multiple Jurisdiction.** This ordinance does not in any way replace or annul any other lawful governmental authority, such as Rusk County, which has regulatory jurisdiction applicable to a subdivision, and where any conflict between any ordinances exists, the greater restriction shall apply.

(d) **Certified Survey.** Any division of land other than a subdivision as defined in Sec. 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.

(e) **Building Permits.** The Town of Big Bend shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, minor subdivision, land division, replat or certified survey originally submitted to the Town of Big Bend Zoning Committee on or after the effective date of this Chapter until the applicant has complied with all of the provisions and requirements of this Chapter.

(f) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the Town's jurisdiction, to the extent permitted by Chapters 236 and 703, Wis. Stats. For purposes of this Chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.

Sec. 14-1-21 Land Suitability.

(a) **Suitability.** No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Town Board, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he/she so desires. Thereafter the Town Board may affirm, modify, or withdraw its determination of unsuitability.

(b) **Existing Flora.** The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.

(c) **Additional Considerations.**

(1) Areas of archaeological and/or historical interest shall be designated by the State Historical Society.

(2) Areas of geological interest shall be designated by the State Geological and Natural History Survey.

(3) Suitability of land for private sewerage systems shall be determined in accordance with Chapter SPS 383, Wisconsin Administrative Code.

Sec. 14-1-22 Condominium Developments.

(a) **Purpose.**

(1) The Town Board hereby finds that certain issues arise in condominium developments that require limited applicability of this Chapter to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums, but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.

(2) The factor that makes this Chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "parcels", with each property entity having

different ownership and management. The Town determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.

(3) Thus, the Town Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:

a. Additional population density;

b. Possibility of use of particular land in a manner unsuitable to the land's characteristics;

c. Additional demands upon Town area parks, recreation areas, utility facilities and schools;

d. Additional traffic and street use.

(b) **Portions of Chapter Applicable to Condominium Developments.** The following sections of this Chapter shall apply to condominium developments:

(1) Sections 14-1-21, relating to land suitability and construction practices;

(2) Sections 14-1-30 through 14-1-32, relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in Section 14-1-40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.;

(3) Section 14-1-34, relating to fees for review;

(4) Article F, relating to required improvements;

(5) Article G, relating to design standards for improvements.

(c) This Section shall not apply to the following condominiums:

(1) Any condominium plat recorded prior to the effective date of this Chapter;

(2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter.

Sec. 14-1-23 through Sec. 14-1-29 Reserved for Future Use.

Article D: Plat Review and Approval

Sec. 14-1-30 Preliminary Consultation.

Before filing a Preliminary Plat or certified survey, the subdivider is encouraged to consult with the Town Zoning Committee and/or other professionals assisting the Town for advice regarding general subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Clerk-Treasurer. To facilitate this initial consultation, the subdivider should submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his/her development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

Sec. 14-1-31 Submission of Preliminary Plat.

(a) **Submission.** Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The subdivider shall submit eight (8) copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with this Chapter and with Sec. 236, Wis. Stats., and the subdivider shall file copies of the Plat and the application as required by this Section with the Town Clerk-Treasurer at least fifteen (15) days prior to the meeting of the Town Zoning Committee at which action is desired. The Town Clerk- Treasurer shall submit a copy of the Preliminary Plat to the Town Board and to the Rusk County Zoning Office if within shoreland zoning for review and written report of their recommendations and reactions to the proposed plat.

(b) **Public Improvements, Plans and Specifications.** Simultaneously with the filing of the Preliminary Plat or map, the owner shall file with the Town Clerk-Treasurer twelve (12) complete sets of engineering reports, plans and specifications for the construction of any public improvements required by this Chapter, specifically addressing septic and water service feasibility, drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the subdivision.

(c) **Property Owners Association; Restrictive Covenants.** A draft of the legal instruments and rules for proposed property owners associations, when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to Sec. 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the Preliminary Plat with the Town Clerk-Treasurer.

(Note: Deed restrictions and restrictive covenants in subdivisions are private contractual

agreements and are generally not enforced or enforceable by the Town.)

(d) **Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he/she has fully complied with the provisions of this Chapter.

(e) **Supplementary Data to be Filed with Preliminary Plat.** The following shall also be filed with the Preliminary Plat:

(1) ***Use Statement.*** A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and

(2) ***Zoning Changes.*** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and

(3) ***Area Plan.*** Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Town Board may require that the subdivider submit a Preliminary Plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.

(f) **Street Plans and Profiles.** The subdivider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.

(g) **Soil Testing.** The subdivider shall provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in Section 14-1-21, the Town Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.

(h) **Referral to Other Agencies.**

(1) The subdivider shall, within two (2) days after filing, transmit two (2) copies to the appropriate sanitary district (if applicable), four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Administration, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Commerce if the subdivision is not served by the public sewer and provision for such service has not been made. The County Planning Agency, the Wisconsin Department of Administration, the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall be hereinafter referred to as objecting agencies.

(2) Within twenty (20) days of the date of receiving the copies of the plat, any state or county agency having authority to object under Subsection (h)(1) above shall notify the subdivider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or, if all objections have been satisfied, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the twenty

(20) day limit it shall be deemed to have no objection to the plat. Sanitary or utility districts within the Town may file objections with the Town Board at any time prior to, and including, the Board's public hearing on the land division.

(3) In lieu of the procedure under Subsection (h)(1), the subdivider or the subdivider's agent may submit the original plat to the Department of Administration which shall forward two (2) copies to each of the agencies authorized to object. The Department shall have the required number of copies made at the subdivider's expense. Within twenty (20) days of the date of receiving the copies of the plat, any agency having authority to object shall notify the subdivider, and all agencies having the authority to object, of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the Department of Administration. After each agency and the Department have certified that they have no objection or that their objections have been satisfied, the Department shall so certify on the face of the plat. If an agency fails to act within twenty (20) days from the date of the receipt of copies of the plat, and the Department fails to act within thirty (30) days of receipt of the original plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the Department.

(i) **Drafting Standards.** The subdivider shall submit to the Town Clerk-Treasurer and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a Preliminary Plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

Sec. 14-1-32 Preliminary Plat Review and Approval.

(a) **Board Review; Public Hearing.** The Town Clerk-Treasurer shall schedule a public hearing on the Preliminary Plat before the Town Board. The Town Clerk-Treasurer shall give notice of the Town Zoning Committee review and public hearing on the Preliminary Plat by listing it as an agenda item in the committee meeting notice published in the official Town newspaper or posted. The notice shall include the name of the applicant, the address of the property in question and the requested action. Property owners within two hundred (200) feet of the proposed land division shall receive written notice of the public hearing.

(b) **Board Action.** The Town Board shall, within ninety (90) days of the date the plat was filed with the Town Clerk-Treasurer, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Town Board to act within ninety (90) days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Town Clerk-Treasurer shall

communicate to the subdivider the action of the Town Board. If the plat is approved, the Town Clerk-Treasurer shall endorse it for the Town Board.

(c) **Town Engineer.** The Town Board may engage an engineering firm to act as Town Engineer to assist in review of any plat or CSM, and the cost of such engineer shall be paid by the Subdivider (refer to Section 14-1-34).

(d) **Effect of Preliminary Plat Approval.** Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within six (6) months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Town Zoning Committee at the time of its submission.

(e) **Preliminary Plat Amendment.** Should the subdivider desire to amend the Preliminary Plat as approved, he/she may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

Sec. 14-1-33 Final Plat Review and Approval.

(a) **Filing Requirements.**

(1) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file eight (8) copies of the Plat and the application with the Town Clerk-Treasurer at least fifteen (15) days prior to the meeting of the Town Zoning Committee at which action is desired. The Town Clerk-Treasurer shall give notice of the Town Board's meeting in the manner prescribed in Section 14-1-32(a)(2). The owner or subdivider shall file eight (8) copies of the Final Plat not later than six (6) months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Town. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Town Attorney may require showing title or control in the applicant.

(2) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Sec. 236.12(2).

(3) Simultaneously with the filing of the Final Plat or map, the owner shall file with the Town Clerk-Treasurer twelve (12) copies of the final plans and specifications of public improvements required by this Chapter.

(4) The Town Clerk-Treasurer may refer copies of the Final Plat to Rusk County Zoning, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report may be referred to the Town Attorney for his/her examination and report. The Town Clerk-Treasurer may also refer the final plans and specifications of public improvements to Rusk County Zoning, if within shoreland zoning for review. The recommendations of Rusk County Zoning shall be made within thirty (30) days of the filing of the Final Plat. Rusk County Zoning shall examine

the plat or map and final plans and specifications of public improvements for technical details and, if he/she finds them satisfactory, shall so certify in writing to the Town Board. If the plat or map or the plans and specifications are not satisfactory, Rusk County Zoning shall return them to the owner and so advise the Town Board.

(5) The objecting state and county agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Administration has thirty (30) days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Town. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.

(6) If the Final Plat is not submitted within six (6) months of the last-required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.

(b) **Board Review and Approval.**

(1) The Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Town Clerk-Treasurer, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Town Board may not inscribe its approval on the Final Plat unless the Town Clerk-Treasurer certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.

(2) The Town Board shall, when it determines to approve a Final Plat, give at least ten (10) days prior written notice of its intention to the Municipal Clerk of any municipality within one thousand (1,000) feet of the Final Plat.

(3) Failure of the Town Board to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(4) After the Final Plat has been approved by the Town Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Town Clerk-Treasurer shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within six (6) months from the date of last approval.

(5) The subdivider shall file eight (8) copies of the Final Plat with the Town Clerk-

Treasurer for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files.

(c) **Partial Platting.** The Final Plat may, if permitted by the Town Board, constitute only that portion of the approved Preliminary Plat which the subdivider proposes to record at the time.

Sec. 14-1-34 Administrative Fees.

(a) **General.** The subdivider shall pay the Town all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map.

(b) **Engineering Fee.** The subdivider shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with the plat or certified survey map, including inspections required by the Town. The subdivider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Zoning Committee deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.

(c) **Administrative Fee.** The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map. Included as such administrative fees shall be the cost of publication, meeting fees that are paid to Town Board members and the Zoning Committee members.

Sec. 14-1-35 Replat.

(a) Except as provided in Section 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Sections 236.40 through 236.44 of the Wisconsin Statutes. The subdivider or person wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats.

(b) The Town Clerk-Treasurer shall schedule a public hearing before the Town Board when a Preliminary Plat of a replat of lands within the Town is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed Replat.

(c) Where lots are more than double the minimum size required for the applicable zoning district, the Town Board may require that such lots be arranged so as to allow re-subdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

Sec. 14-1-36 through Sec. 14-1-39 Reserved for Future Use,

Article E: Technical Requirements for Plats

Sec. 14-1-40 Technical Requirements for Preliminary Plats.

(a) **General.** A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:

(1) ***Title*** under which the proposed subdivision is to be recorded.

(2) ***Location*** of the proposed subdivision by government lot, quarter section, township, range, county and state.

(3) ***Date, Scale and North Point***

(4) ***Names and Addresses*** of the owner, subdivider and land surveyor preparing the plat.

(5) ***Entire Area*** contiguous to the proposed plat owned or controlled by the subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Town Board recommendation, may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undue hardship would result from strict application thereof.

(b) **Plat Data.** All Preliminary Plats shall show the following:

(1) ***Exact Length and Bearing*** of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.

(2) ***Locations of all Existing Property Boundary Lines,*** structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.

(3) ***Location, Right-of-Way Width and Names*** of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(4) ***Location and Names of any Adjacent Subdivisions,*** parks and cemeteries and owners of record of abutting unplatted lands.

(5) ***Type***, ***Width and Elevation*** of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.

(6) ***Location, Size and Invert Elevation*** of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.

(7) ***Corporate Limit Lines*** within the exterior boundaries of the plat or immediately adjacent thereto.

(8) ***Existing Zoning*** on and adjacent to the proposed subdivision.

(9) ***Contours*** within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Town Board or its designated Town Engineer or Zoning Committee, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

(10) ***High-Water Elevation*** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.

(11) ***Water Elevation*** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.

(12) ***Floodland and Shoreland Boundaries*** and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.

(13) ***Soil Types*** and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.

(14) ***Location and Results of Soil Boring Tests*** within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code and delineation of areas with three (3) foot and six (6) foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.

(15) ***Location and Results of Percolation Tests*** within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.

(16) ***Location Width and Names*** of all proposed streets and public rights-of-way such as alleys and easements.

(17) ***Approximate Dimensions of All Lots*** together with proposed lot and block numbers. The area in square feet of each lot shall be provided.

(18) ***Location and Approximate Dimensions*** of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.

(19) ***Approximate Radii of all Curves.***

(20) ***Any Proposed Lake and Stream Access*** with a small drawing clearly indicating the location of the proposed subdivision in relation to access.

(21) ***Any Proposed Lake and Stream*** improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department

of Natural Resources, when applicable.

(22) ***Where the Town Board or Rusk County Zoning*** finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the subdivider.

(c) **Additional Information.** The Town Board may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

Sec. 14-1-41 Technical Requirements for Final Plats.

(a) **General.** A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20, Wis. Stats., and this Chapter.

(b) **Additional Information.** The Final Plat shall show correctly on its face, in addition to the information required by Section 236.20, Wis. Stats., the following:

(1) ***Exact Length and Bearing*** of the center line of all streets.

(2) ***Exact Street Width*** along the line of any obliquely intersecting street.

(3) ***Exact Location and Description*** of street lighting and lighting utility easements.

(4) ***Railroad Rights-of-Way*** within and abutting the plat.

(5) ***All Lands Reserved*** for future public acquisition or reserved for the common use of property owners within the Plat.

(6) ***Special Restrictions*** required by the Town Board relating to access control along public ways or to the provision of planting strips.

(c) **Deed Restrictions.** Restrictive covenants and deed registrations for the proposed subdivision shall be filed with the Final Plat.

(d) **Property Owners Association.** The legal instruments creating a property owners association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.

(e) **Survey Accuracy.**

(1) ***Examination.*** The Town Board shall examine all Final Plats within the Town of Big Bend and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.

(2) ***Maximum Error of Closure.*** Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in ten thousand (1:10,000), nor in azimuth, four (4) seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure of the field measurements has been obtained; the survey of the exterior boundary shall be adjusted to form a closed geometric figure.

(3) ***Street, Block and Lot Dimensions.*** All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If checks disclose an error for any interior line of the plat greater than the ratio of one part in five thousand (1:5,000), or an error in measured angle-greater than one (1) minute of arc for any angle where the shorter side forming the angle is three hundred (300) feet or longer, necessary corrections shall be made. Where

the shorter side of a measured angle is less than three hundred (300) feet in length, the error shall not exceed the value of one (1) minute multiplied by the quotient of three hundred (300) divided by the length of the shorter side; however, such error shall not in any case exceed five (5) minutes of arc.

(4) ***Plat Location.*** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the County, the tie required by Section 236.20(3)(b), Wis. Stats., shall be expressed in terms of grid bearing and distance; and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.

(f) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and monumenting requirements of Section 236.15, Wis. Stats.

(g) **State Plane Coordinate System.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the County, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Counties control survey.

(h) **Certificates.** All Final Plats shall provide all the certificates required by Section 236.21, Wis. Stats.; and in addition, the surveyor shall certify that he/she has fully complied with all the provisions of this Chapter.

Sec. 14-1-42 Technical Requirements for Certified Survey Land Divisions; Review and Approval.

(a) **Certified Survey Requirements.** For any land division creating up to four (4) parcels of five (5) acres or less in size, such map shall not contain more than four (4) parcels which are thirty-five (35) acres each or less, or building sites within a recorded subdivision plat without changing the exterior boundaries of the block, lot or outlot, the subdivider shall subdivide by use of a certified survey map, prepared in accordance with Section 236.34, Wis. Stats. and this Chapter.

(b) **Submission and Review.** The subdivider shall file two (2) copies of said survey map with the Town Clerk-Treasurer. The Town Zoning Committee and Town Board shall review, and within forty (40) days approve, approve conditionally or reject the map. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection.

(c) **Additional Information.** The Certified Survey Map shall show correctly on its face, in addition to the information required by Section 236.34, Wis. Stats., the following:

(1) ***All Existing Buildings,*** watercourses, drainage ditches and other features pertinent to proper division.

(2) ***Setbacks or Building Lines*** required by the Town ordinances and specifically the Town Zoning Code.

(3) ***All Lands Reserved*** for future acquisition.

(4) ***Date of the Map.***
(5) ***Graphic Scale.***
(6) ***Name and Address*** of the owner, subdivider and surveyor.
(7) ***Square Footage*** of each parcel.
(8) ***Present Zoning*** for the parcels.

(d) **State Plane Coordinate System.** Where the map is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the Town, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Counties control survey.

(e) **Certificates.** The surveyor shall certify on the face of the certified survey map that he/she has fully complied with all the provisions of this Chapter. The Town Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.

(f) **Street Dedication.** Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.2l(2)(a) of the Wisconsin Statutes.

(g) **Recordation.**

(1) The subdivider shall record the map with the Rusk County Register of Deeds within thirty (30) days of its approval by the Town Board and any other approving agencies. Failure to do so shall necessitate a new review and re-approval of the map by the Town Board.

(2) Three (3) additional copies of the final approved map shall be forwarded to the Town of Big Bend. The volume and page number of the recording file shall be noted on the final approved map copies.

(h) **Requirements.** To the extent reasonably practicable, the certified survey shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than two (2) acres or three hundred (300) feet in width.

Sec. 14-1-43 through Sec. 14-1-49 Reserved for Future Use,

Article F: Required Improvements

Sec. 14-1-50 Improvements Required.

(a) **Payment for Improvements.** The improvements prescribed in this Chapter are required as a condition of approval of a land division. The required improvements described in this Chapter shall be installed, furnished and financed at the sole expense of the subdivider. However, in the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Town Board, be financed through special assessments.

(b) **General Standards.** The following required improvements in this Chapter shall be installed in accordance with the engineering standards and specifications which have been adopted by the Town Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by Rusk County Zoning, if within shoreland zoning or Town Board.

Sec. 14-1-51 Required Agreement Providing for Proper Installation of Improvements.

(a) **Contract.** Prior to installation of any required improvements and prior to the meeting at which the Final Plat is approved, the subdivider shall enter into a written contract with the Town requiring the subdivider to furnish and construct said improvements at his/her sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction details by Town Zoning Administrator, Town Zoning Committee, or Rusk County Zoning, if within shoreland zoning.

(b) **Financial Guarantees.**

(1) The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to one and one quarter (1- 1/4) times the Town Zoning Committee, Rusk County Zoning's, if within shoreland, estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.

(2) On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the deposit, letter of credit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond, deposit or letter of credit, shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond, deposit or letter of credit, period for additional periods not to exceed two (2) years each period.

(3) The time for completion of the work and the several parts thereof shall be determined

by the Town Board upon recommendation of the Rusk County Zoning Office after consultation with the subdivider. The completion date shall be a component of the contract.

(4) The subdivider shall pay the Town for all costs incurred by the Town for review and inspection of the subdivision. This would include review, and preparation at the Town Board's discretion, of plans and specifications by Rusk County Zoning, Planner, and Attorney, as well as other costs of a similar nature.

Sec. 14-1-52 Required Construction Plans; Town Review; Inspections.

(a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14-1-31, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final Plat stage, construction plans for the required improvements conforming in all respects with the standards of Rusk County Zoning and the ordinances of the Town shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his/her seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Board or Rusk County Zoning for their approval and for their estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the Final Plat with the Town Clerk-Treasurer, or as soon thereafter as practicable, copies of the construction plans and specifications, where applicable, shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district:

(1) ***Street Plans and Profiles*** showing existing and proposed grades, elevations and cross sections of required improvements.

(2) ***Storm Water and Open Channel*** plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.

(3) ***Erosion and Sedimentation Control*** plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the County's or Town's Erosion Control Ordinance.

(4) ***Planting Plans*** showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.

(5) ***Additional*** special plans or information as required by Town officials.

(b) **Action by Rusk County Zoning.** If withing shoreland zoning, Rusk County Zoning shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Town ordinances and design standards recommended by Rusk County Zoning and approved by the Town Board. If Rusk County Zoning rejects the plans and specifications, he/she shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, Rusk County Zoning shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed and construction commenced.

(**Note:** Rusk County Zoning review is optional at the discretion of the Town Board.)

(c) **Construction and Inspection.**

(1) Prior to starting any of the work covered by the plans approved above, written

authorization to start the work shall be obtained from the Town Board upon receipt of all necessary permits and in accordance with the construction methods of this Chapter. Building permits shall not be issued until all improvements required by this Chapter are satisfactorily completed.

(2) Construction of all improvements required by this Chapter shall be completed within two (2) years from the date of approval of the Preliminary Plat by the Town Board, unless good cause can be shown for the Town Board to grant an extension.

(3) During the course of construction, Rusk County Zoning shall make such inspection as the Town Board deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Town for such inspection. This fee shall be the actual cost to the Town inspectors, engineers and other parties necessary to insure satisfactory work.

(d) **Record Plans.** After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three (3) copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as Rusk County Zoning, if within shoreland zoning shall require. These plans shall be prepared on the original mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. Two (2) copies shall be retained by the Town and one (1) copy of such record plans shall be forwarded to the appropriate sanitary district.

Sec. 14-1-53 Street Improvements.

The subdivider shall construct streets, roads and alleys as outlined on the approved plans based on the requirements of this Chapter:

(a) **Street Construction Standards.** The design and construction of all roads, streets and alleys in the Town shall fully comply with the requirements and specifications of Section 14-1-70.

(b) **Grading.**

(1) With the submittal of the Final Plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of roads, streets and alleys shown on the plat.

(2) Proposed grades will be reviewed by Rusk County Zoning for conformance with Town standards and good engineering practice. Street grades require the approval of the Town Board after receipt of the Rusk County Zoning's recommendations.

(3) After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots.

(4) In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.

(5) The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation.

(6) The Town Board shall approve all grading within rights-of-way and said grading

shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved.

(7) Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.

(c) **Street Construction.** After necessary utilities have been installed, where required by the Town, the subdivider shall construct and dedicate, as part of the subdivision, streets. Construction shall be to Town standard specifications for street improvements.

(d) **Completion of Street Construction.**

(1) Prior to any building permits being issued on lands adjacent to streets, all street construction shall be completed by the subdivider and accepted by the Town Board.

(2) The Town Board may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Town Board.

(3) The subdivider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

Sec. 14-1-54 Storm Water Drainage Facilities.

(a) Pursuant to Section 14-1-70(g), the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. Storm sewers are to be of adequate size and grade to hydraulically accommodate the ten (10) year storm; culverts shall be designed to accommodate the ten (10) year storm and shall be sized so that the twenty-five (25) year frequency storms do not cause flooding of the adjacent roadway. Upon the approval of Rusk County Zoning, storm water swales and ditches may be sized for from twenty-five (25) to one hundred (100) year frequency storms, depending upon the estimated amount of damage that would be incurred by adjacent properties if flooding did occur. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Town Board, upon the recommendation of Rusk County Zoning. Storm sewers oversized to handle runoff from offsite properties will be installed by the subdivider; however, the cost of oversizing above a twenty- four (24) inch diameter storm sewer shall be paid by other users connecting to the system.

Sec. 14-1-55 Other Utilities.

(a) The subdivider shall cause gas, electric power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision,

certified survey or land division. All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Town Board specifically, allows overhead poles for the following reasons:

(1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or

(2) The lots to be served by said facilities can be served directly from existing overhead facilities.

(b) Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Town Board and such map shall be filed with the Town Clerk-Treasurer.

Sec. 14-1-56 Street Signs.

The subdivider shall install at the intersections of all streets proposed to be dedicated a street name sign of a design and installation specified by the Town Board.

Sec. 14-1-57 Erosion Control.

Pursuant to the County's or Town's Construction Site Erosion Control Ordinance, the subdivider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The subdivider shall submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems.

Sec. 14-1-58 Easements.

(a) **Utility Easements.** The Town Board, on the recommendation of appropriate agencies serving the Town, shall require utility easements for poles, wire, conduits, storm sewers, gas, water and head mains or other utility lines. It is the intent of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.

(b) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way, channel or stream:

(1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or

(2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.

(3) Wherever possible, it is desirable that drainage be maintained by an open channel with

landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet. If, in the opinion of Rusk County Zoning, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a one hundred (100) year frequency storm. If the drainage easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage easement.

(c) **Easement Locations.** Such easements shall be at least twelve (12) feet wide, or wider where recommended by Rusk County Zoning, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Town Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

Sec. 14-1-59 through Sec. 14-1-69 Reserved for Future Use.

Sec. 14-1-70 General Subdivision and Road/Street Design Standards.

(a) **Compliance with Statutes.** In laying out a subdivision, the owner shall conform to the provisions of Ch. 236, Wis. Stats., and all applicable Town regulations. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply. For the purposes of this Chapter, the terms roads and streets includes all public throughways and right of ways under the Town's jurisdiction, including vehicle, bicycle and pedestrian throughways. For the purposes of this Chapter, the terms street, road or highway (as defined by 340.01(22) Wis. Stats) mean town roads, and roads that are proposed to become town roads.

(b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter and Sections 6-2-1 and 14-1-53. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Town Board. The subdivision, certified survey parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.

(c) **Compliance with Comprehensive Plan.** The arrangement, character, extent, width, grade and location of all streets shall conform to any Town Comprehensive Development Plan or Official Map and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.

(d) **Areas Not Covered by Plan.** In areas not covered by a Town Comprehensive Plan, or Official Map, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.

(e) **Road Standards.** Streets/roads/highways shall comply with the standards in Chapter 82 and 86, and all Town Ordinances, and if any conflict between such standards shall exist, the stricter standard shall govern.

(f) **Access**. Every lot shall front or abut on a public street/road for a distance of at least thirty (30) feet. In unique hardship cases where it is impossible for a lot to abut a public street, a private way may be used for access purposes provided the private way is adequate for emergency services to access the lot as determined by Rusk County Zoning, and provided a statement is included on the face of the plat indicating that the lot is served by a private way and that the Town has no responsibility for the maintenance of the private way. Any such private way is subject to applicable County ordinances, if any.

(g) **Drainage System Required**. As required by Sec. 14-1-54, a drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A Final Plat shall not be

approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved by the Town Board, upon the recommendations of Rusk County Zoning (if consulted).

(h) **Fee in Lieu of Land Dedication; Park Fund**. The Town may require a fee in lieu of land dedication, pursuant to 236.45(6)(am), Wis. Stats. Any funds paid to the Town under this provision are to be placed in a separate account designated for the purposes allowed under 236.45(6)(am), Wis. Stats.

Sec. 14-1-71 through Sec. 14-1-89 Reserved for Future Use.

Article H: Variances; Penalties and Violations

Sec. 14-1-90 Variations and Exceptions.

(a) Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this Chapter because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Town Board in the analysis of the proposed project.

(b) The Town Board shall not grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;

(2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.

(c) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the Town in accordance with any Town Comprehensive Plan or component thereof, this Chapter, or applicable Zoning Code. A majority vote of the entire membership of the Town Board shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Board.

(d) The Town Board may waive the placing of monuments, required under Sec. 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider executes a surety bond to insure the placing of such monuments within the time required.

Sec. 14-1-91 Enforcement, Penalties and Remedies.

(a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.

(b) **Penalties.**

(1) Any person, firm or corporation who fails to comply with the provisions of this

Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) and the costs of prosecution allowed by law for each violation, and in default of payment of such forfeiture costs may be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days.

(2) Each day a violation exists or continues shall constitute a separate offense.

(3) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.

(4) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.

(5) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.

(6) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the subdivider when a subdivision is created by successive divisions.

(c) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sections 236.13(5) of the Wisconsin Statutes, within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action.

TITLE 15

Building Code

Chapter 1 Building Code

Title 15 ► Chapter 1

Building Code

15-1-1 Building Code Established
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Sec. 15-1-1 Building Code Established.

(a) **Title.** This Chapter shall be known as the "Building Code of the Town of Big Bend" and will be referred to in this Chapter as "this Code," "this Chapter" or "this Ordinance."

(b) **Purpose.** This Chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.

(c) **Wisconsin Uniform Dwelling ("UDC") Code Adopted.** The Wisconsin Uniform Dwelling Code, Chapters SPS 320 to 325, of the Wisconsin Administrative Code, is adopted and incorporated by reference.

(d) **Scope**.

(1) New buildings hereafter erected in, or any building hereafter moved within or into the Town, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change.

(2) This Code applies to all dwellings, commercial buildings/structures, in ground swimming pools, garages, structures, buildings, and residential accessory buildings.

(3) This Code does not apply to any building or structure which is less than two hundred (200) square feet and does not have electricity or plumbing.

Sec. 15-1-2 Building Permits and Inspection.

(a) **Permit Required**.

(1) ***General Permit Requirement.*** No building of any kind shall be moved within or into the Town and no new building or structure, or any part shall hereafter 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 therefor shall first have been obtained from the Town Clerk or Zoning Administrator. Prior to commencing any of the following work, the owner or his/her agent shall obtain a valid permit for:

a. New buildings and structures, including garages, other accessory buildings, and agricultural buildings.
b. Additions that increase the physical dimensions of a building including decks.
c. Alterations to the building structure to the building's heating electrical or plumbing systems.
d. Any electrical wiring for new construction or remodeling.
e. Any HVAC for new construction or remodeling.
f. Any plumbing for new construction or remodeling.
g. Exempt are normal repairs performed in Subsection (a)(l)e-g.
h. Re-roofing is exempt; however, no more than two layers of roofing shall be installed on a roof, unless an engineering report with structural calculations is provided showing such re-roofing is safe.
i. Also exempt are re-siding, and finishing of interior surfaces, installation of cabinetry, and minor repair.
j. Permits are not required for replacement of major building equipment and appliances such as furnaces, central air conditioners, water heaters, and plumbing, venting, electrical or gas supply systems when altered

(2) ***Alterations and Repairs***. The following provisions shall apply to buildings altered or repaired:

a. **Alterations**. When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but which is of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, room, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.
b. **Repairs**. Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any existing stairways, exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.
c. **Alterations; When Not Permitted**. When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent (50%) of

the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.

d. **Alterations and Repairs Required**. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which, the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the building or structure is in compliance with the regulations of this Chapter.

e. **Extent of Deterioration**. The amount and extent of deterioration of any existing building or structure shall be determined by the Building and/or Fire Inspector as appropriate.

(b) **Application**.

(1) Application for a building permit shall be made in writing upon a form furnished by the Town Clerkor his/her designee and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the Zoning Administrator may require.

(2) Sanitary permits and county permits, if applicable, must be applied for and received prior to issuance of Town permit by the Clerk-Treasurer.

(3) A Uniform Dwelling Code permit application is required by the State of Wisconsin for new dwellings. There is no Town charge associated with this form.

(c) **Dedicated Street and Approved Subdivision Required.** No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes. No building permits shall be issued until the subdivision and required improvements are accepted by the Town Board.

(d) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six months (6) or if construction has not been completed within twenty-four (24) months from the date of issuance thereof.

(e) **Revocation of Permits**.

(1) The Fire Inspector, Zoning Administrator, or the Town Board may revoke any building, plumbing or electrical permit, certificate of occupancy, or approval issued under the regulations of this Chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:

a. Whenever the Town Board or its designee shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning or construction has been issued to him/her.

b. Whenever the continuance of any construction becomes dangerous to life or property.

c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.

(2) The notice revoking a building, plumbing or electrical certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of

the premises and his/her agent, if any, and on the person having charge of construction.

(3) A revocation placard shall also be posted upon the building, structure, equipment, or premises in question by the Zoning Administrator.

(4) After the notice is served upon the appropriate persons and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he/she may require for the preservation of life and safety.

(f) **Report of Violations.** Town officers shall report at once to the Town Clerk any building which is being carried on without a permit as required by this Chapter.

(g) **Display of Permit.** Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

Sec. 15-1-3 Unsafe Buildings.

Whenever the Fire Inspector or Town Board, or its designee, find any building or part thereof within the Town of Big Bend to be, in their judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, they shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option. Such order and proceedings shall be as provided in Sec. 66.0413, Wis. Stats.

Sec. 15-1-4 Regulation and Permit for Razing Buildings.

(a) **Demolition Permit Required.** All persons, except the Town operating pursuant to Sec. 66.0413, Wis. Stats., who demolish or cause to be demolished any structure or part of a structure larger than four hundred (400) square feet within the Town of Big Bend shall apply for and obtain a demolition permit from the Town of Big Bend Clerk prior to undertaking any steps to demolish the structure.

(b) **Application.** An application for a permit to demolish all or part of a building shall include the following information:

(1) The name and address of the owner of the building on date of application and, if different, on date of demolition;

(2) The name, address and telephone number of the contractor(s) performing the demolition work;

(3) The date upon which demolition is to commence;

(4) The date by which demolition shall be complete.

(c) **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.

(d) **Clearing and Leveling the Site**.

(1) The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in same other manner acceptable to the Town Board so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than ninety (90) consecutive days after demolition is completed.

(2) Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration.

(e) **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable federal, state, county and local statutes, ordinances and regulations.

(f) **Miscellaneous Provisions**. All demolitions shall be carried out in compliance with all federal, state, county and local health and safety laws, regulations and ordinances, including but not limited to erosion, dust and pest control.

Sec. 15-1-5 Basements; Excavations.

(a) **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.

(b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation (including for sewer and water lateral excavations) which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way before workers leave the job site.

(c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Fire Inspector shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith, suitable safeguards shall be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Fire Inspector shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Town Board from the date of the report by the Fire Inspector on the cost thereof.

(d) **Fill Dirt.** Fill dirt used at a site shall be graded within four (4) weeks.

Sec. 15-1-6 Construction Sites; Maintaining Clean Streets.

Town streets are to be kept clean of dirt and debris from all construction sites. The primary contractor for any construction project shall be responsible for sweeping streets of debris within twenty-four (24) hours of the incident. The Town of Big Bend will clean said street(s) if the work is not done within twenty-four (24) hours of the incident; and charge the current established costs to the contractor for the work. Failure to pay said costs within thirty (30) days of receipt of the billing shall be deemed a violation of this Section, and be subject to the penalty provisions of Section 1-1-6.

Sec. 15-1-7 Fees.

Fees. Fees are as shown on the Town Fee Schedule.

Sec. 15-1-8 Severability.

If any section, clause, provision or portion of this Chapter, or of the Wisconsin Administrative Code adopted by reference, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

Sec. 15-1-9 Penalties and Violations.

(a) Any building or structure hereafter erected, enlarged, altered or repaired for any use hereafter established in violation of the provisions of this Chapter shall be deemed an unlawful building, structure or use. Town employees shall promptly report all such violations to the Town Board which shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use of buildings in violation of this Chapter or to cause such building, structure or use to be removed. Violators may also be subject to a penalty as provided in the fee schedule or general penalty provisions of the Code of Ordinances. In any such action, the fact that a permit was issued shall not constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunction at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.

(b) Procedures.

(1) If an inspection reveals a noncompliance with this Chapter, the Town Clerk-Treasurer shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted by the Town Board.

(2) If, after written notification, the violation is not corrected within thirty (30) days, a stop- work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site.

(3) Each day each violation continues after the thirty (30) day written notice period has run shall constitute a separate offense. Nothing in this Chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter.

(4) If any construction or work governed by the provisions of this Chapter is commenced prior to the issuance of a permit, penalty of 2.5 the fee may be charged in accordance with the Fee Schedule.

Sec. 15-1-10 Appeals

Appeals. Any person feeling aggrieved by an order or a determination of the Building Inspector or Fire Inspector may appeal from such order or determination to the Town Board. Those procedures customarily used to effectuate an appeal to the Town Board shall apply.