

PREAMBLE: AUTHORITY: The Town Board of the Town of Apple River has the specific authority, powers and duties, pursuant to Sec. 60.61, 60.62, 61.35 and 62.23, (2021-22) Wisconsin Statutes, pursuant to the specific statutory sections noted in this ordinance and by the adoption of village powers under Sec. 60.10, Wisconsin Statutes, by the electors of said Town on; and by the granting (to said Board) of powers to zone under the above statutory provisions by the electors of said Town (at a legally called and noticed Annual Town Meeting on April 16, 2024) to zone certain areas in the Town of Apple River and to regulate, prohibit, and restrict construction, alteration, erection and enlargement of certain structures and buildings in the Town of Apple River and to regulate and control certain uses, activities, businesses and operations in the Town of Apple River. Ordinance Number 2024-2: ZONING, adopted April 16, 2024 is hereby adopted and created, and shall read as follows:

## **ORDINANCE NUMBER 2024-2: ZONING CODE**

### **Chapter 1: ADMINISTRATION AND ENFORCEMENT**

#### **Section A. TITLE**

This ordinance is entitled “The Town of Apple River Zoning Ordinance”. The provisions of this ordinance are adopted to promote the health, safety, and general welfare of the Town of Apple River, Polk County, Wisconsin. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws; provided, however, that where the ordinance imposes a greater restriction upon the use of buildings on premises, or upon the height ordinance imposes a greater restriction upon the use of buildings on premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations, or permits or by easements, covenants, or agreements, the provision of this ordinance shall govern.

#### **Section B. PURPOSE**

An ordinance to promote the health, safety and general welfare: To regulate land uses. For the said purpose to divide the Town of Apple River, Polk County, Wisconsin, into districts of such number, shape and area as are deemed best enforcement, and to provide penalties for its violation.

#### **Section C. INTRODUCTION AND EXPLANATION**

This section describes how this ordinance shall be administered.

1. Section D. Creates and defines the Town Zoning Administrator’s office. The Administrator is a town officer who advises citizens and landowners of their rights and obligations under this chapter, issues permits, makes inspections to determine compliance with this chapter, issues compliance orders and recommends legal actions to obtain compliance with this chapter. The Administrator acts under authority delegated by the Town Board.

2. Section E. governs permits. Sanitary permits must be obtained from the Polk County Zoning Administrator. From the Town Zoning Administrator, one can obtain land use permits. The Town Zoning Administrator makes the decision on land use permits when the use for which permission is requested is listed in the ordinance as a permitted use. The Town building inspector makes all decisions regarding building permits.
3. Section F. describes how the ordinance applies to structures and uses; which existed prior to the adoption of this chapter. In general, zoning is not retroactive and such uses may continue as “nonconforming uses” subject to some limitations defined by Wisconsin Statutes and spelled out in this section.
4. Section G. describes the purpose and function of the Town Plan Commission.
5. Section H. describes the Board of Appeals. This five-member board has two powers directly granted to it by the State Legislature and others granted by the Town Board. The statutory duties of the Board are to hear and decide appeals from decisions of the Administrator of Plan Commission and to consider variances from the strict requirements of this chapter where a unique hardship exists and where a waiver of the strict rules of the chapter can be granted without destroying the purpose.
6. In Section I., the Town Board has granted the Plan Commission the tasks of long-range land use planning and deciding whether to approve special exceptions. The Plan Commission may impose conditions on a special exception.
7. Section J. deals with procedure for changes or amendments to this text or the district map.
8. Section K. deals with the expiration of land use and construction permits.
9. Section L. deals with enforcement and penalties.

**Section D.     ZONING ADMINISTRATOR**

1.     **CREATED.**  
There is hereby created the office of Town Zoning Administrator, who shall act with the powers and duties set forth in paragraph 2 below.
2.     **POWERS AND DUTIES.**  
The Zoning Administrator shall:
  - a. Advise Applicants. Advise applicants for permits as to the provision of the chapter and assist them in preparing applications.
  - b. Issue Permits. Issue permits as provided in this section.
  - c. Keep Records. Keep records of all permits issued, inspections made, work approved, legal nonconforming uses, special exception uses, conditional uses and/or variances granted by the Plan Commission or Board of Appeals and other official actions.

- d. Determine District Boundaries. Determine questions of the exact location of district boundaries. Whenever there is a dispute over the exact boundary of a district, the Zoning Administrator shall decide the matter. The person contesting the matter shall be given a reasonably opportunity to present his/her case to the Zoning Administrator and to submit his/her own technical evidence, if he/she so desires. The Board of Appeals may review decisions of the Zoning Administrator as an appeal.
- e. Making On-site Investigations of Subdivisions. Make on-site investigations required for subdivision administration as provided in the Town Subdivision Ordinance.
- f. Access to Premises for Inspection Purposes. Have access to any structure or premises that has received a land use permit from the Town, solely for the purpose of performing his duties. This power shall be exercised at a reasonable hour and after a 24-hour notice.
- g. Issuance of Building and Land Use Permits. Applications for Building and Land Use Permit shall be delivered to the Town Zoning Administrator who shall:
  - (1) Review the application to determine:
    - (a.) that the parcel was created in compliance with Town ordinances;
    - (b.) that the proposed land use is:
      - [1] a “permitted use” in a district in which it is located, or
      - [2] accompanied by a special exception permit granted by the Plan Commission;
    - (c.) compliance with:
      - [1] all applicable set back and highway access regulations, or;
      - [2] an attached variance, granted by the Board of Appeals
    - (d.) if a copy of a County Sanitary permit is attached (if needed).
    - (e.) inclusion of a rural address/fire number (if needed);
    - (f.) inclusion of the applicable fee prescribed by the Town’s Schedule of Fees Ordinance.
  - (2) If all applicable requirements are deemed to be satisfied, the Zoning Administrator shall issue a land use permit.
  - (3) Any land use, building, or special exception permits issued without compliance to this section shall have no legal effect.
  - (4) No construction, alteration or addition to any building or structure shall commence before a building permit, special exception permit or any other zoning permit, which may be required by this or any other ordinance, has been issued.
- h. Procedures in Case of Violations.
  - (1) In the case of a violation of this ordinance, the Zoning Administrator shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.
  - (2) The Zoning Administrator shall also report all violations to the Plan Commission and the Town Board. The Zoning Administrator is also authorized to report the violation to the Town Attorney and to sign complaint.

## **Section E. ZONING AND SANITARY PERMITS**

### **1. WHEN A PERMIT IS REQUIRED.**

- a. The Erection, Addition or Alteration of any Building, Structure or Portion therefore. Construction of any new structure or any addition to an existing structure shall require a Land Use Permit from the Town, except accessory structures under 144 square feet do not need to

obtain a land use permit. The project still must meet all the applicable requirements for obtaining a land use permit including, but not limited to, setbacks, height, and number of structures per parcel.

- b. The Construction or Structural Alteration of any Private Sewerage System. This permit shall be known as a Sanitary Permit and shall be issued by the County Zoning Administrator. A sanitary permit is needed to begin construction of a new dwelling or new commercial building.
- c. Building Permit. A building permit is required if the work being performed meets the criteria necessitating a permit in the Wisconsin State Uniform Dwelling Code. The need for a building permit is independent of the need for a Land Use permit.

2. APPLICATION FOR A PERMIT.

- a. Application for permits shall be made to the office of the Town Zoning Administrator upon forms furnished by the Town Zoning Administrator.
- b. All applications shall contain the following data:
  - (1) Name and address of the applicant and the owner of the property.
  - (2) Legal description of the property, volume and page of the records of the Polk County Register of Deeds at which is located the recorded legal description of the parcel in the form of a plat or survey map, deed or similar instrument and type of proposed use. (Where the Town Zoning Administrator has any doubt as to the location of the project in relation to any boundary, he may require the applicant to provide a certified survey map. Such maps are not to be required when an existing structure is remodeled or repaired and does not expand the physical dimensions of the structure.)
  - (3) A sketch of the dimensions of the lot and location of any buildings from the lot lines, centerline of abutting roads and water (with water level marks at the day of the sketch).
- c. Where a private water or sewerage system is to be installed, the application shall contain the following information in addition to that required above:
  - (1) Permit number of the county sanitary permit.
- d. When the application concerns land subject to floodplain zoning, the plans shall also include detailed information on the elevation of the lot and the location of existing or proposed fill or storage materials. This shall be in addition to that required by 2 b. and 2 c. above.
- e. Permits or special exceptions issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

3. FEES:

- a. Schedule. Whenever an applicant files an application for any permit, or review in this chapter, the applicant shall pay a fee as set forth in the Town Schedule of Fees Ordinance.
- b. Temporary occupancy permits. The owner of a parcel who holds a valid zoning and sanitary permit for construction of a principal structure may apply for and obtain approval for temporary placement and occupancy of a mobile dwelling unit during construction of condition of connecting such unit to and use of a legal sanitary system. All residential occupancy of the mobile home unit shall cease, and the mobile home shall be removed from the property when the principal home is capable of occupancy.

**Section F.        NONCONFORMING USES AND STRUCTURES**

**1. GENERAL LIMITATIONS**

When any structure or the use of any structure or premises has become a nonconforming use as defined in Chapter 2, such use may continue subject to the following limitations:

- a. As long as no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Once a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
- b. No nonconforming use shall be expanded, enlarged or altered in any way which increases its nonconformity.
- c. If any nonconforming use is discontinued for 12 consecutive months, any future use of the structure or premises shall conform to this ordinance.
- d. No expansion or alterations of a legal non-conforming structure are allowed unless the expansion or alteration conforms to the current zoning requirements.

**2. FLOODPLAIN NONCONFORMING USES.**

Whenever any structure subject to floodplain zoning is a nonconforming use under the floodplain provisions of this chapter, it shall be subject to the following additional provisions:

- a. Any alteration, addition or repair to such a structure for any purpose which would result in substantially increasing its flood damage potential shall be protected by the measures set out in State and County Regulations and Legislation regarding Floodplain Zoning.
- b. When such a structure is destroyed or damaged, as described in paragraph F.1.d. above, the Zoning Administrator, Plan Commission or Board of Appeals may permit reconstruction only if the structure is located outside the floodway or reconstruction is adequately and safely flood proofed, elevated or otherwise protected in conformity with State and County Regulations and Legislation regarding Floodplain Zoning, and with written permission of the County Zoning Administrator.

**Section G.        TOWN PLAN COMMISSION**

1. AUTHORIZATION AND COMPOSITION. As of the date of this Ordinance, the Town has a Plan Commission, which shall continue under its prior rules and procedures and as constituted until such time as the members would change under the pre-existing rules and procedures.

**2. PROCEDURAL RULES.**

- a. The Plan Commission shall select a vice chairman and meet at the call of the chairman, vice chairman or at such other times as the Plan Commission may determine, at a fixed time and place.
- b. All meetings of the Plan Commission shall be open to the public.
- c. The Plan Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator as a public record.

**3. POWERS AND DUTIES.**

The Plan Commission shall:

- a. Adopt such rules as it considers desirable for the conduct of business, subject to the provisions of this section and relevant Statutes.

- b. Make recommendations to the Town Board on special exceptions as provided in Section I. of this Chapter.
  - c. Review Land Use Laws and develop a long-term land use plan for the Township.
4. PROCEDURES.
- a. Hearings on Special Exceptions. Upon filing with the Plan Commission of an application for a special exception, the Plan Commission shall hold a public hearing. The Commission shall fix a reasonable time for the hearing, give notice by mail to all property owners within 300 feet of any portion of the property that utilizes the proposed use. Additional notices will be sent to any lake association for any use within 300 feet of that lake, to any municipality that has property within 300 feet of the proposed use, to the office of any state park if the use is within 300 feet of the state park, and to the National Park Service for any use within 300 feet of any park land, and publish a Class 2 notice under Chapter 985, Wisconsin Statutes. When the matter concerns shoreland or floodplain regulations the Commission shall submit to the County Zoning Administrator, a copy of the notice and application for a special exception, sufficiently in advance so that the County will receive at least ten (10) days' notice of the hearing. At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record. It is the intention of this Ordinance that the decisions on a special exception, including any conditions attached to such special exception, not be appealable to the Board of Appeals.
  - b. Keep Records. The Town Plan Commission shall keep minutes of all meetings and records of all special exceptions granted (with and conditions established) and other official actions.
  - c. Make and Give Notice of Decisions Made. The Commission shall make a decision on any matter brought before it in a timely manner, and make a written report of their decision or recommendation available to the applicant, the Zoning Administrator and the Town Board within thirty (30) days of any hearing held. Any special exception application that is denied cannot be reapplied for six (6) months from denial. Any special exception permit that is revoked cannot be reapplied for twelve (12) months from revocation; provided, however, this period may be shortened by the Town Board in its discretion of the violations leading to the revocation have been corrected.

## **Section H.      BOARD OF APPEALS**

1. AUTHORIZATION AND COMPOSITION
- The Town Board Chairman exercising village powers under Wisconsin Statutes 60.10(2)(c), shall appoint under authority of Wisconsin Statutes 61.35 and 62.23, a Board of Appeals consisting of a chairman, four (4) regular members and first and second alternates, who shall vote only in the absence of regular members. All appointments shall be subject to confirmation by the Town Board.
2. PROCEDURAL RULES.
- a. The Board of Appeals shall select its own vice chairman and meet at the call of the chairman, vice chairman or at such other times as the Board may determine, at a fixed time and place.
  - b. All meetings of the Board of Appeals shall be open to the public.
  - c. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall

keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator as a public record.

- d. In the case of all appeals, the Board of Appeals shall solicit and weigh information and comments from the Town Board, Plan Commission and Zoning Administrator.

### 3. POWERS AND DUTIES.

The Board of Appeals shall:

- a. Adopt such rules, as it considers desirable for the conduct of business, subject to the provisions of this section and relevant Statutes.
- b. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or commission in the enforcement or administration of this chapter. The provisions of Section H shall govern all such appeals.
- c. Whenever there is a dispute over the exact boundary of a district, the Board shall decide the matter as an appeal. Where boundary disputes concern floodplains, the regional flood elevation for the point in question shall be the governing factor in locating the floodplain boundary on the land. The person contesting the matter shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence, if he/she so desires.
- d. If, after hearing the evidence, the Board makes a finding that there was an error, the Board may order the error corrected.
- e. The Board may grant variances from the strict terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship so that the spirit of the ordinance shall be observed and substantial justice done. Variances shall be granted only subject to the provisions of Section H. No variance shall have the effect of allowing in any district, uses not permitted in that district.

### 4. PROCEDURES.

- a. Appeals from Actions of Administrative Officials. Appeals to the Board of Appeals may be taken by any person aggrieved or by the officer, department, board, commission or committee of the Town affected by the decision of the Zoning Administrator. Such appeal shall be taken within reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- b. Stay of Administrative Actions. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order from the Board of Appeals or a court of law.
- c. Hearings on Appeals or Variances. Upon the filing with the Board of an appeal from a decision of the Zoning Administrator, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and publish a Class 2 notice under Chapter 985, Wisconsin Statutes, as well as giving due notice by mail to all property owners within 1000 feet of any portion of the property that utilizes the proposed use. Additional notices will be sent to any lake association for any use within 1000 feet of that lake, to any

municipality that has property within 1000 feet of the proposed use, to the office of any state park if the use is within 1000 feet of the state park, and to the National Park Service for any use within 1000 feet of any park. When the matter concerns shoreland or floodplain regulations, the Board shall submit to the County Zoning Administrator, a copy of the notice and application for the proposed variance sufficiently in advance so that the County will receive at least ten (10) days' notice of the hearing. At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record. The Board shall use those standards, as prescribed for special exceptions (where applicable), in its deliberations on whether or not to grant a variance.

- d. Decisions on Appeals or Variances. The Board shall arrive at a decision on such appeal within a reasonable time. In passing upon an appeal the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and it shall make its decision in writing setting forth the findings of fact and the reasons for its decision. No variances affecting any provision of the shoreland or floodplain regulations shall be granted without the written approval of the County Zoning Administrator.
- e. Variances in Floodplain areas. No variance in a floodplain area shall have the effect of allowing uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation (a point two (2) feet above the regional flood level) for the area or permit standards lower than those required by State law or County ordinance.
- f. Conditions Attached to Variances. In granting a variance, the Board of Appeals may prescribe appropriate conditions and safeguards which are in uniformity with the purposes of this chapter. In the case of variances from the floodplain regulations, this includes the measures outlined in Section I.2. below. Violations of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this ordinance.

## **Section I. SPECIAL EXCEPTIONS**

Certain uses and situations are of such special nature or their effect is so dependent upon actual contemporary circumstances as to make impractical the determination in advance of permissibility. Provision has been made in this ordinance for the determination of such cases by the Plan Commission as special exceptions. Special exceptions shall only be granted subject to the following provisions:

- 1. **GENERAL STANDARDS.**
  - a. No grant of a special exception shall violate the general intent of this ordinance.
  - b. A use by special exception may be denied by the Board of Appeals if that use would constitute a nuisance by reason of noise, dust, smoke, odor, or other similar factors.
  - c. The Board shall also apply standards set forth in other sections of this ordinance, which apply to particular classes of special exceptions.
- 2. **FACTORS FOR SPECIAL EXCEPTIONS IN FLOODPLAIN ZONING.**

When a provision of the floodplain zoning regulations is involved, no special exception shall be granted by the Plan Commission without specific consideration of all the following factors:

  - a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
  - b. The proposed water supply and sanitation system and the ability of these systems to prevent the occurrence of disease, contamination and unsanitary conditions.



- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage to the individual owners.
  - d. The importance of the services provided by the proposed facility or use to the community.
  - e. The requirements of the facility or use for a waterfront location.
  - f. The availability of alternative locations not subject to flooding for the proposed use.
  - g. The comparability of the proposed use with existing development and development in the near future.
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - k. Such other factors as are relevant to the purposes of the chapter.
3. GENERAL PROCEDURE.
- In addition to the provisions of this section, applications for special exceptions shall be processed in this manner:
- a. Applications. Application for any use listed in this chapter as requiring a special exception may be allowed only upon application to the Plan Commission on forms furnished by the Zoning Administrator. Special exception permit applications can include single parcels or land or groupings of parcels contiguous or non-contiguous.
  - b. Notice and Public Hearing. Before passing upon an application for special exception, the Plan Commission shall hold a public hearing with notice provided as required by Section G. 4. a. herein.
  - c. Determination in Writing. The conditions of approval or reasons for disapproval shall be stated in writing by the Plan Commission and/or Town Board and made a permanent part of the minutes.
  - d. Decisions. After hearing all of the evidence from the applicant, the public, interested parties, and any other person who may have pertinent information, the Plan Commission shall make a recommendation to the Town Board by the deadlines provided in Section I.I.4.f of this ordinance, and the Town Board shall then make a final decision within thirty (30) days of receiving the recommendation.
  - e. Termination. Where a special exception does not continue in conformity with the conditions of the original approval, the special exception shall be terminated by action of the Town Board after receiving a recommendation from the Plan Commission. Prior to termination, notice to affected parties shall be given and a public hearing held by either the Plan Commission or Town Board.
  - f. Time to Act Upon Application. The Plan Commission shall act on an application in the manner described above within thirty (30) days of receiving the application, except that where additional information is required by the Plan Commission under paragraph 5 below, the Plan Commission shall render a written decision within twenty (20) days from the receipt of such information.
4. REQUESTS FOR ADDITIONAL INFORMATION.
- a. Before passing upon an application for a special exception, the Plan Commission may require the applicant to furnish further relevant information.

5. CONDITIONS

The Plan Commission shall make the granting of a request for a special exception contingent upon such express conditions as it considers necessary to future the aims of this chapter. These conditions may include, but are not limited to, specifications of:

- a. The period of time in which all or part of the use may be permitted.
- b. Increased setback and yard dimensions.
- c. Specified sewerage disposal and water supply facilities.
- d. Landscaping and planting screens.
- e. Operational control.
- f. Sureties.
- g. Deed restrictions.
- h. Location of docks, piers or other structures, sign, etc.
- i. Location and amount of parking facilities.
- j. Type of construction.
- k. Type of shore cover.
- l. Any other conditions as deemed necessary by the plan commission and/or Town Board.

6. SPECIAL EXCEPTION FOR INTENSE ENERGY USES, WIND ENERGY FACILITIES OR SOLAR ENERGY FACILITIES

Section 1. Findings and Purpose.

(1) Findings. Industrial Sand Mining operations, Wind Energy Facilities and Solar Energy (“Intense Energy Uses”) Facilities, while vital components of our state and local economy, can have both direct and indirect adverse impacts. Studies have documented that Intense Energy Uses can have adverse impacts on groundwater and surface water, and can generate harmful levels of dust and noise, flicker, dangerous height, and other potential issues, particularly if blasting and crushing operations are undertaken. Intense Energy Uses sites can have negative impacts on the landscape and aesthetics if not properly screened, and can present safety concerns to members of the public if not properly secured. Truck traffic from such operations can also generate off-site impacts including safety concerns to children and other residents. While certain aspects of mining operations are subject to state or federal regulation, there is no comprehensive state or federal regulation of Intense Energy Uses operations. Many aspects of Intense Energy Uses operations are left unregulated with potential adverse impacts to the public health, safety and welfare of the residents of the Town.

(2) Purpose. The purpose of these provisions is to provide minimum standards for all Intense Energy Uses operations in the Town, in order to protect public health and safety, to protect the public from damage to both the quantity and quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of Apple River.

Section 2. Applicability and Scope.

- (1) The provisions of this Section shall apply to all Intense Energy Uses operations and mine sites within the Town of Apple River except as set forth in sub. (2).
- (2) This Section (l)(10) shall not apply to the following Intense Energy Uses operations:

(a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

(b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.

(c) Grading conducted for preparing a construction site (except an Intense Energy Uses site) or restoring land following a flood or natural disaster.

(d) Excavations for building construction purposes conducted on the building site.

(e) Intense Energy Uses at Intense Energy Uses sites where less than ten (10) acres of total affected acreage occurs over the life of the mine.

(f) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

Section 3. Definitions. For purposes of this Section (I)(10), the following definitions shall be applicable:

(1) "Industrial Sand" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable silica sand material. This includes, without limitation, sand which is often known to the general public as "frac sand".

(2) "Industrial Sand Mining" means any or all of the following:

(a) Extraction from the earth of mineral aggregates or Industrial Sand for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.

(b) Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, drying, dewatering, or blending of the Industrial Sand obtained by extraction from the mining site or with materials transferred from off-site.

(c) Manufacturing processes aimed at producing Industrial Sand products for sale or use by the Operator.

(d) Stockpiling of Industrial Sand or finished products for sale or use off-site; and stockpiling of waste materials.

(e) Transport, transfer or transload of the extracted Industrial Sand, finished products or waste materials to or from the extraction site.

(f) Disposal of waste materials.

(g) Reclamation of the extraction site.

(3) "Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of a reclamation plan.

(4) A "mine site" or "site" means land from which Industrial Sand will be extracted for sale or use by the Operator and/or any land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing, drying, dewatering, transfer, transload or screening facilities, private roads, rail spurs or haulage ways associated with any of the Intense Energy Use operation; and all contiguous lands to the Intense Energy Use operation under common ownership or control of the owner or Operator.

(5) "Adjoining landowner" means any property within 1/2 mile of the proposed mine Site regardless of whether there is a residence or structure on the property.

(6) "Landowner" means the person who has title to land in fee simple or who holds a land contract for the land.

(7) "Solar Energy System" has the meaning provided in Wis. Stat. §13.48(2)(h)1. g. and includes transmission facilities dedicated to the solar energy system.

(8) "Town" means the Town of Apple River, in Polk County, Wisconsin.

(9) "Town Board", means the Town Board of the Town of Apple River, in Polk County, Wisconsin.

(10) "Operator" means any person who is engaged in, or who has applied for a permit to engage in any of the Intense Energy Use, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.

(11) "Wind Energy Facility" means an electricity-generating facility whose primary purpose is to supply electricity. This consists of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and/or facilities.

#### Section 4. Special Exception Permit.

Neither any Intense Energy Use, nor the operation of a mine site, Wind Energy Facility or Solar Energy System are permitted uses in any zoning district in the Town. However, they are special exception uses in certain zoning districts as more particularly set forth in this Zoning Ordinance.

(1) Permit Requirement. No person shall operate an industrial sand mine site, a Wind Energy Facility or Solar Energy System within the scope of this Ordinance in the Town of Apple River without first obtaining a Special Exception Permit (in the districts in which such a permit is available) from the Town Board.

(2) Permit Term

(a) A Special Exception Permit for operation an industrial sand mine site, Wind Energy Facility and/or Solar Energy System shall be granted for a period of two (2) years commencing on the date the special exception permit is issued and ending on the second anniversary of the issuance of the permit.

(b) A Special Exception Permit may be renewed in the same manner as receiving an initial permit.

(3) Permit Amendment. If the Town has issued a Special Exception permit, the Operator may request an amendment to that permit during the permit term, using the same process as the original permit application.

(4) Permit Transfer. An Operator's permit may be transferred to a new Operator only with the prior written permission of the Town Board, which shall be granted if the new Operator agrees to the conditions in place with the current Operator and if the new Operator provides all financial assurances as

may be required by the Town, county, or state. For clarity, if the current Operator enters into a Developers Agreement with the Town, pursuant to this Ordinance, the current permit may not be transferred unless and until the new Operator agrees with the Town in writing to assume all of the obligations under said Developers Agreement and to abide by the terms and conditions set forth in said Developers Agreement.

(5) Permit Revocation. An Operator's permit may be revoked under the procedures set forth in this Ordinance.

#### Section 5. Procedures For Applying For A Permit

(1) Application Form. The Application Form for a permit in the Town of Apple River shall be available from the Town Zoning Administrator.

(2) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section 6 to the Town Zoning Administrator accompanied by the payment of both the application fee and the base administrative fee established for the administration of this Ordinance in amounts set forth in the Town of Apple River schedule of fees. The fees shall be made payable to "Treasurer, Town of Apple River." The Application Form shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.

(3) Initial Review.

(a) Preliminary Review. The Zoning Administrator shall conduct an initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary, the application shall be scheduled for consideration as set forth in this Ordinance.

(b) Additional Information. The Zoning Administrator, Town Plan Commission or Town Board may request the applicant to submit additional information if the Town Board determines that application is incomplete. With the approval of the Town Board, the Zoning Administrator or Plan Commission may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Plan Commission, Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance.

(c) Additional fees. If the Town Board determines that additional expertise is required, the Town Board shall authorize retaining the services of an engineering firm, attorney or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of the services of any such retained expert. The additional fee shall be paid before the additional review is undertaken.

(d) Report. Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the Zoning Administrator, Plan Commission and Town Board on whether the application meets the requirements of this Ordinance.

(4) Decision by the Town Board. Once the application is complete and any report by a retained expert has been completed, if feasible given publication and notice requirements, the Town Clerk shall place the application on the agenda for the next regular meeting of the Plan Commission and Town Board, respectively. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting.

## Section 6. Permit Application

All applicants for an Intense Energy Use special exception permit shall submit a complete application form. Incomplete applications will be returned to the applicant and review of the application will be put on hold. Applicants shall submit all of the following information, including any information not specifically requested on the application form as attachments to the form:

(1) Ownership Information.

(a) The name, address, phone number(s), and e-mail address of the Operator of the Intense Energy Use operation.

(b) The name, address, phone number(s), and e-mail address of all owners or lessees of the land on which the mining operation will occur.

(c) The Operator shall designate a local contact person (either on site or with an office in Polk, Burnett, St. Croix or Barron County) who the Town can contact for information or with concerns. Said contact person shall be available by phone or in person during the hours the mine is in operation.

(2) Site Information and Maps.

(a) A certified survey map(s), survey or other reasonably accurate and complete map and parcel identification number(s) of the property on which the Intense Energy Use operation will be located.

(b) An aerial photo of the proposed site at a scale of 1-inch equals 660 feet signed by both the Operator and the landowner.

(c) The location within the site of all existing buildings and other structures, equipment, stockpiles, storage and parking areas.

(d) A topographic map or maps of the mine site extending 3 and 1/2 miles beyond the site boundaries at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.

(e) A map on which the all residential, agricultural and municipal wells within one (1) mile of the boundaries of the site in all directions are marked and given a numerical identification of the location.

(f) The location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within one (1) mile of the site.

(g) A description of the distribution, depth and type of topsoil on the site.

(h) For manufacturing, drying, transfer, transload or solar facilities, solar panels, wind turbines, processing facilities within the Town, a map identifying the location of all other non-contiguous sites within the Town of Apple River and any other municipality, if any, that will contribute extracted material to the same manufacturing, drying, transfer, transload or processing facility and any transmission lines, or storage facilities to which the site for which the applicant seeks a permit.

(3) Operation Plan

(a) Dates of the planned commencement and cessation of the operation.

(b) Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.

(c) Estimated volume of material to be extracted over the life of the mine and for the next calendar year (or if the mine site is solely a drying, processing, transload or transfer facility, the amount of product that will pass through the site over the life of the site and for the next

calendar year), or estimated energy production in Megawatts, number of wind towers (including dimensions of each tower) and number of solar panels (each of the forgoing as applicable).

(d) Location of road access points. The proposed location within the site of all buildings and other structures, equipment, stockpiles, storage and parking areas.

(e) Identification of all proposed off-site trucking routes, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the site.

(f) A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water including methods used for infiltration and control of run-off.

(g) A listing of any hazardous materials, including fuel supplies that will be stored on site and a description of measures to be used for securing and storing these materials.

(h) A listing of all chemicals and approximate quantities used in the manufacturing or processing operations or in controlling dust. Note: If the Operator desires to change or add chemicals, the Town Board must be notified in advance of any such change or addition.

(4) Information Demonstrating Compliance with Minimum Standards.

(a) The Operator shall provide the information necessary to demonstrate that the mining operation will comply with the minimum standards in Section 7.

(b) For Intense Energy Use sites, facilities, or operations commencing after the effective date of this Section of the Zoning Ordinance, the Operator shall also provide information establishing baseline conditions at the site before mining operations commence, including the groundwater elevation across the site, groundwater quality at the site for lead, arsenic and any other toxic metal that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made, and the base flow of surface water within one (1) mile of the site.

(5) Exceptions. The applicant can request an exception from the application requirements of this section if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular operation, and that the public health, safety and welfare will not be adversely affected thereby.

#### Section 7. Minimum Standards of Operation

If a Special Exception Permit is granted, the Operator shall comply with all conditions set forth in such permit. In addition, the Operator shall comply with all of the following standard conditions:

(1) No blasting or "bumping" shall occur without special permission by Town Board, or the Operator shall have obtained a blasting permit from the Town pursuant to the Town's Blasting Ordinance if one has been enacted.

(2) The Operator shall contact the Town Chairperson or Zoning Administrator as soon as possible and no later than within 2 hours, in the event of hazardous chemical or waste spills, leaks or contamination of any kind or in the event of a release of any chemical, dust or particles above levels permitted by applicable regulations.

(3) The Operator shall undertake all measures necessary for the control of surface water runoff from Intense Energy Uses operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under NR 216 and NR 151 as applicable.

(4) In the event that the site contains areas adjacent to the Intense Energy Use operations that are being used for agricultural, commercial or residential purposes, the Operator shall undertake all measures necessary to control surface water runoff from those areas from operations or otherwise causing contamination of surface water and groundwater.

(5) The Operator shall provide a buffer area of a minimum of 500 feet along bordering property lines and public roadways.

(6) The Operator shall screen the operations from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures. Prior to construction, the Town shall be consulted on the analysis and configuration of berm construction and placement.

(7) The Operator shall limit normal hours of operations to 12 hours a day Monday through Friday during daylight hours and not later than 6:00 pm to minimize off-site impacts to residents. The Operator may submit a plan for extended hours as part of its application or as part of a Developers Agreement, if it can demonstrate that additional hours are reasonably necessary for the mining operation and it would be consistent with public, health safety and welfare.

(8) The Operator shall limit night lighting on site, to that which is minimally necessary for security and, wherever possible, shall be shielded from illuminating off-site areas. Full cut-off shrouds shall be employed at the site. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky. Upon written complaint of light pollution made to the Town Board, the Town shall notify Operator, which shall take steps to mitigate the light pollution by redirecting the lighting and taking other reasonable steps to address the complaint.

(9) The Operator shall minimize backup alarm sounds as much as possible, and use “white noise” backup alarms to the extent permitted under federal and state regulations.

(10) No jake braking of trucks entering and leaving the mine site. Operator shall inform all truck drivers and any independent contractors that they must comply with the no jake braking rule and all other applicable traffic codes. If a trucker disregards this notice, Operator shall take steps to correct the action or stop using any such trucking company that refuses to comply.

(11) Noise at the boundary of the site shall not exceed 60 decibels.

(12) Mining operations shall have at least one monitoring well for every 10-acre sector of the mine site, and the Operator shall take quarterly samples for lead, arsenic and any other toxic metal that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.

(13) The Operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the Intense Energy Use operation have been or will be obtained prior to commencement of operation. During the operation of the site, the Operator shall comply will all local, state and federal laws, rules, regulations and ordinances.



(14) Intense Energy Use operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one (1) mile of the mine site. A significant reduction is a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis. See Section 9 of this Ordinance for further details.

(15) Intense Energy Use operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one (1) mile of the site, including but not limited to, a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.

(16) Intense Energy Use operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural or municipal functions such as fire protection. Adverse effects include but are not limited to a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.

(17) Operator shall repair any damage to, and remove sediment from any private property, or town roads, ditches and other drainage ways when Operator is found responsible by the Town for such sediment or damage caused by runoff from the mine site for any reason, including but not limited to heavy rains and/or snowmelt runoff.

(18) The Operator will work with the Town to develop a haul route which will set forth the Town roads that may be utilized by the Operator in hauling materials to or from the site (or otherwise by trucks traveling to or from the site). The haul route restrictions shall become a part of the conditions of a Special Exception Permit and the operator shall ensure that all truck traffic traveling to or from the site only utilizes the haul route. Prior to Operator utilizing the haul route, the Town will hire an independent third party to conduct a baseline study of the Town roads on the haul route ("Road Study"). If the Road Study determines that all or a portion of the haul route roads must be rebuilt or improved to accommodate the truck traffic generated by the site, Operator will pay to the Town the amount necessary to rebuild or improve such roads and the Town shall cause such roads to be rebuilt or improved using such funds. During and after the operation of the site, Operator shall be responsible, and shall pay to the Town an amount equal to the amount required to fix any damage to any Town roads attributable to the site or truck traffic traveling to or leaving the site.

(19) The Operator will comply, and cause its contractors and employees to comply, with any seasonal spring special weight restriction that may be imposed upon Town roads for the approximate six (6) week period beginning in the Spring.

#### Section 8. Financial Assurances.

(1) Financial assurance shall be provided to the Town as a condition of special exception permit approval in the amount necessary for the following:

(a) Road repair. An amount necessary for the repair and maintenance of Town roads used for truck traffic transporting materials to or from the site. Upon the agreement of the Town Board, the financial assurance may be in the form of a Road Maintenance Escrow Account.

(b) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within one (1) mile of the site or such other area shown to be impacted by the Operator's operations.

(2) The form of financial assurance made to the Town of Apple River shall be that form agreed to by the Town Board and may include performance bonds, escrow agreements, irrevocable letters of credit or other measures agreed upon by the Town Board.

(3) If at any time after a special exception permit is issued, the Town determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the Town shall notify the Operator of the additional amount needed and the basis for the request. The Operator shall have 30 days to provide the increased amount.

(4) The Operator shall also provide to the Town proof that it has provided the financial assurance for reclamation required under Wisconsin law, if applicable.

#### Section 9. Damages to Private Water Supply

(1) A property owner within one (1) mile of the site may seek remedies under subs (2)-(5) for any of the following damages to private water supply caused by the Operator or its employees or contractors:

(a) A preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.

(b) A substantial adverse impact on the quantity or quality of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.

(c) A lowering of surface waters which serve as a source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.

(d) A substantial adverse impact on property value as a result of the site.

(e) A substantial adverse impact from vibration, flicker or other nuisance from the operation of the site.

(2) Any property owner under sub (1) seeking a remedy under this Section shall simultaneously file a notice with the Town and the mine Operator of the occurrence of the event under sub (1) explaining the nature and extent of the problem.

(3) Within 24 hours of receipt of such notice under sub (2), the Town may use funds provided under Section 8 (if applicable) to provide an adequate interim water supply. If applicable, the Town shall also use funds under Section 8 to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under sub (4).

(4) Within 20 days of receipt of notice under sub (2), the Operator may provide to the property owner and to the Town a report that demonstrates that the impact to the property owner was not attributable to the mining operation, or to present a plan for a permanent alternative water supply to be paid by the Operator.

(5) The Town shall in consultation with the property owner review the report or plan and approve or deny such report or plan. If the Town determines that the Operator's report is incorrect or insufficient, the Town may continue to provide an interim water supply (if a fund for the same has been

set up pursuant to Section 8) during any subsequent negotiations, mediation, or litigation. If the Town determines that the mine Operator was not the cause of damage to the private water supply, the Operator may elect to seek reimbursement by the property owner for the costs of supplying interim water during a period not exceeding one year.

(6) A property owner beyond one (1) mile of the mine site may apply to the Town for use of funds under Section 8, if applicable, to remedy damages to a private water supply identified in sub (1), provided that the property owner can demonstrate to the Town that the damage to the private water supply was caused by the mine. If the Town determines that the damage was caused by the mine, the property owner can utilize the remedies in subs (2) to (5).

#### Section 10. Developers Agreement

Any of the provisions of this Section (I)(10), including the license term, may be modified by agreement between the Town and the Operator if the Town Board determines that the agreement provides protections for the public at least equal to those of this Ordinance.

### **Section J. CHANGES AND AMENDMENTS**

1. The Town Board, the Plan Commission, the Board of Appeals, and other government bodies and any private petitioners may apply for an amendment to the text of this Ordinance, to the District boundaries hereby establish, or by amendments thereto, in the accompanying zoning map (made a part of this chapter by reference).
2. PETITION FOR CHANGES OR AMENDMENTS.  
Petitions for any change to the district boundaries and map(s) or amendments(s) to the text of this Ordinance, shall:
  - a. be on forms supplied by the Zoning Administrator;
  - b. be addressed to the Town Board and Plan Commission;
  - c. be filed with the Zoning Administrator;
  - d. include a full description of the premises to be rezoned or the portions of the text of regulations to be amended;
  - e. specify the proposed use or change;
  - f. list the reasons justifying the petition;
  - g. list the names and mailing addresses of all owners or occupants of land within three hundred (300) feet of any land whose district or use will be changed, if the petition for action were taken; and
  - h. be accompanied by a fee (included in the Town's Fees and Penalties Ordinance) to cover the cost of a hearing.
3. The Plan Commission shall hold a public hearing, after due notice to interested parties, and issue its report to the Town Board, including a finding of facts and recommendation, signed by each Commissioner in agreement with the findings and recommendation, with regard to the action requested by the petition. Members of the Plan Commission may issue individual concurring or dissenting reports.
4. The Town Board may adopt the majority (or any concurring) report of the Plan Commission, or hold its own hearing, after which it may adopt any dissenting report of the Plan Commission, or grant or deny the petition, in whole or in part.

**Section K.      EXPIRATION OF PERMITS FOR LAND USE OR CONSTRUCTION**

Permits for land use changes or construction shall expire if the changes or construction has not commenced within twenty-four (24) months after the date of issuance.

**Section L.      ENFORCEMENT AND PENALTIES**

**1. INTRODUCTION AND EXPLANATION.**

This section provides for enforcement and penalties for violations of this ordinance. The Town may initiate court action to enforce the ordinance. The result of such enforcement can be a court injunction or forfeitures.

**2. DECLARATION OF UNLAWFUL CONDUCT, ACTIVITIES AND CONDITION.**

**a. Violation of Land Use Provisions.**

- (1) No building or structure shall be erected, constructed, placed, moved or structurally altered nor any use of land, premises, building or structure established or changed in violation of the provisions of this chapter.
- (2) No person shall fail to comply with any standard of this chapter or with any condition or qualification placed upon the issuance of a permit, approval or variance granted in due course under this ordinance.

**3. IDENTIFICATION AND LIABILITY OF PARTIES.**

- a. Owners of lands or properties, occupants of land or premises and agents of owners or occupants including, without limitation because of enumeration, building contractors, surveyors, plumbers, installers, soil technicians, road builders, grading and excavation contractors and their agents and lending institutions and insurer and their agents are responsible for compliance with all provisions of this chapter which bear upon their area of competency and responsibility.
- b. Any person who violates or aids or abets in a violation of this chapter shall be liable to prosecution or remedial action.
- c. This ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by State or Federal law.

**4. INVESTIGATION OF COMPLIANCE, NOTICE OF VIOLATIONS.**

- a. The Zoning Administrator is responsible for inspecting and investigating compliance of land use activities with the terms of this ordinance.
- b. If upon such inspection or investigation the Zoning Administrator becomes aware of a condition, which he/she concludes is or is likely to become a violation as defined in sub. 2. above, he/she shall immediately notify the parties he/she deems to be responsible and potentially liable pursuant to sub. 3. above, of the detected violation. Such notice shall include:
  - (1) A demand that the condition that is alleged to constitute the present or potential violation be halted, prevent from occurring or remedied; or
  - (2) A statement that a complaint on the condition and demand for prosecution has been or will be transmitted to the District Attorney, State agencies or both.
- c. If an enforcement demand is issued under paragraph b. (1) above and is not complied with, the Zoning Administrator shall immediately file a complaint and demand for

prosecution under paragraph b. (2) above, unless an administrative appeal has been commenced and a stay order has been issued pursuant to Section H.4.b. of this chapter.

5. PROSECUTION; INJUNCTIONS AND PENALTIES IN COURT PROCEEDINGS.

- a. Nothing in this section shall be deemed to prevent private prosecution of violations pursuant to Wisconsin Statutes 62.23(F) or common law.
- b. For violation specified in sub. (1), a forfeiture as prescribed in the Town's Schedule of Fees and Penalties Ordinance, in force at the time of the violation, shall be imposed upon conviction or adjudication, plus the cost of prosecution for each violation if so, ordered by the court.
- c. Each day a violation exists or continues may constitute a separate offense in the discretion of the Zoning Administrator.
- d. As a substitute for or an addition to forfeiture actions, the Town may, on behalf of the Town, seek enforcement of any and all parts of this chapter by court actions seeking injunction orders or restraining orders.

6. OTHER ENFORCEMENT PROVISIONS.

- a. Where a special exception use or a variance has been approved subject to specified conditions and where such conditions are not complied with, the Plan Commission or the Board of Appeals shall conduct a hearing following procedure similar to those followed in considering the granting of a special exception or variance. Finding of noncompliance with the conditions originally imposed shall be the grounds for revocation.
- b. The Town Board may, upon the recommendation of the Board of Appeals or Plan Commission, order an assessor's plat pursuant to the procedures of 70.27, Wisconsin Statutes, whenever the conditions specified in that section are found to be present.
- c. The Zoning Administrator, Plan Commission or Board of Appeals shall require creation, Committee approval and recording or correction instruments correcting errors in distances, angles, directions, bearings, chords, block or lot numbers, street names or other details of a recorded map or plat at the expense of the subdividers or affected property owners.
- d. No provision of this ordinance shall be construed to bar action to enjoin or abate the use or occupancy of and land or structure as a nuisance under the laws of Wisconsin.

## **CHAPTER 2: DEFINITIONS**

This section contains brief definitions of key words and phrases used throughout this Zoning Ordinance. Certain terms shall be interpreted as follows:

**Accessory Building.** A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building, including bunkhouses, boathouses, barns, and sheds.

**Accessory Structure or Use.** Any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

**Animal Unit.** A unit of measure used to determine the total number of single animal types or combination of animal types, as determined in Wisconsin DNR NR 243.05.

**Basement.** A story partly or wholly underground which, if occupied for living purposes, shall be counted as a story.

**Board of Appeals.** A five (5) member board, and two (2) alternates, appointed by the Town Chairman, and approved by the Town Board of the Town of Apple River, Polk County, Wisconsin, to hear appeals by any person aggrieved or by any officer, department, board or bureau of the Town of Apple River affected by any decision of the administrative officers.

**Building.** A structure used, designed or intended for the protection, shelter, enclosure or support of person, animals or property. When a building is divided into separate parts by a division wall without openings, extending from the ground up, each part shall be deemed a separate building.

**Building, Height of.** The vertical distance from the base point of elevation as defined in this ordinance to the highest point of a flat roof; to the decline of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

**Bunkhouse.** An accessory structure or part of an accessory structure with or without plumbing which is used as a temporary sleeping quarters only; no cooking or food preparation facilities; and no greater than 1,000 square feet of enclosed dwelling space.

**Centerline.** A line connecting the points on highways from which setback distances shall be measured, at any point on the highway.

**Church.** A building used for public worship.

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

**Commercial District.** The commercial district is created to establish and protect locations in which a wide variety of compatible commercial uses may be located. Within this district most residential development, manufacturing and non-retail commercial enterprises are not allowed in the interest of furthering the livelihood of the permitted retail commercial uses and protecting uses from the effects of incompatibility.

**Development.** Any manmade change to improved or unimproved real estate, including but not limited to construction of or additions to structures or accessory uses, the placement of mobile home, mining dredging, filling, grading, paving, excavation or drilling operations, deposition of materials.

**District Zones.** Parcels or sections of the Town of Apple River, Wisconsin, for which the regulations governing the use of land and buildings are uniform.

**Dust Free.** (As applied to driveways or parking spaces.) Construction of washed and packed gravel or trap rock, concrete, macadam or asphalt.

**Dwelling, Multiple.** A building or portions thereof designed for and used by more than two (2) families. Classification of a residential structure shall be determined by its present or projected occupancy and design and not by the characteristics of ownership and tenancy such as condominium arrangements.

**Dwelling, One Family or Single.** A detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two Family.** A detached or semi-detached building designed for and occupied exclusively by two (2) families.

**Family.** The body of person who live together in one dwelling unit as a single housekeeping entity.

**Farm Animals.** Dairy cattle, beef cattle, swine, sheep, horses, ducks, chickens, turkeys and animals or fowl of similar character and customarily maintained in a large parcel setting for food, recreational, breeding, zoological or similar purpose.

**Fence.** A barrier, railing, or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape.

**Floor Area.** The area within the exterior wall lines of a building, provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics, basements or utility rooms, garages, breezeways, unenclosed porches or terraces.

**Garage, Private.** An accessory building or space for storage.

**Garage, Public.** A building or portion thereof used for the housing or care of motor vehicles for the general public or where any such vehicles are equipped or repaired for enumeration or kept for hire or sale.

**Grade.** The elevation or level of the street closest to the sign to which reference is made, measured at the street's centerline.

**Habitation.** Occupation of structural space by humans for purpose of cooking and eating, sleeping, recreation and general living periods. Space having bedrooms, bathrooms and kitchen facilities shall be considered space for habitation.

**Home Occupation.** A home occupation is defined as gainful occupation conducted within the place or residence.

**Home Occupation, Major.** A major home occupation is a home occupation that is authorized in Chapter 3 of this ordinance, as a special exception by the Plan Commission of the Town of Apple River.

**Home Occupation, Minor.** A minor home occupation is a home occupation authorized by Chapter 3 of this ordinance, without a hearing or permit, only from the principle dwelling of the property.

**Home Occupation, Nonconforming.** A nonconforming home occupation is one that was established and maintained prior to the effective date of this ordinance, but is no longer allowed because of the application of this ordinance or any amendment thereto.

**Household Pets.** Animals commonly found in residence as pets, such as dogs, cats, birds and other small animals, provided that they are not raised or reared for commercial resale.

**Industrial and Mining District.** The purpose of this district is 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, air, water or thermal pollution or any other environmental degradation.

**Kennel.** Any person who owns, harbors, or keeps more than five (5) dogs is presumed to be operating a kennel. A dog is any canine more than five (5) months of age.

**Lot.** A parcel of land occupied or designed to provide space necessary for one main building and its accessory buildings or uses, including the open spaces required by this chapter and abutting on a public street or other official approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office on the Register of Deeds, or any part of a large parcel when such part complies with the requirements of this chapter as to width and area for the district in which it is located. No land included in any street, highway, access easement or railroad right-of-way shall be included in computing lot area.

**Lot, Corner.** A lot located at the intersection of two (2) streets, any two (2) corners of which have an angle of one hundred twenty (120°) degrees or less. If bounded by a curved street in which case the chord within the limits of the lot line forms an angle of one hundred twenty (120°) degrees or less.

**Lot Line.** The line bounding a lot as herein described.

**Lot Width.** For the purpose of this ordinance, the width of a lot shall be the average of (i) the widest part of the lot; and the narrowest part of the lot. (i.e.: If the most narrow part of the lot is 35 feet and the widest part of the lot is 100 feet, the lot width would be the average of 35' and 100' or 67.5 feet).

**Manufactured Home.** A mobile home made to standards specified by the Federal Department of Housing and Urban Development effective in 1980.

**Mobile Home.** A home which is, or was as originally constructed, with a hitch and undercarriage designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

**Mobile Home Park.** A mobile home park means any plot or plots of ground upon which two (2) or more units occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

**Modular Home.** A home, which is pre-built in units or modules that can be joined in various configurations at the site.

**Non-Conforming Use.** A use or occupancy of a building or premises, lawful at the time of the passage of this ordinance, or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance, or any amendments thereto.

**Non-Conforming Structure.** A building occupied at the time of the passage of this chapter, or amendments thereto, which because of size or placement on a lot, or the size of the lot, does not conform to the regulations of this ordinance or any amendments thereto.

**Nuisance.** An unreasonable activity or use of property that interferes substantially with the comfortable enjoyment of life, health, or safety of others.

**Person.** Any natural individual, firm, trust, partnership, association or corporation.



**Plan Commission.** The Town of Apple River, Polk County, Wisconsin, Plan Commission.

**Pre-Built Home.** A dwelling built with conventional methods and materials but away from the permanent location. The pre-built structure generally is moved to the site in one unit.

**Professional Office.** The office of a doctor of medicine or dentistry, practitioner, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

**Quarrying.** The removal of mineral aggregates, topsoil or other natural materials from the earth by excavating, stripping or any other mining process. For the purposes of this ordinance quarrying does not include Industrial Sand Mining.

**Residential District.** The Residential District is created to establish and protect the characteristics of areas within which predominantly low-density residential use should occur, along with certain community and recreational uses to serve the residents of the district.

**Roadside Stand.** Roadside stands, selling only produce and other similar items at a parcel and operated by the family.

**Screening.** Screening is a solid fence, six (6) feet high or a planting belt not less than fifteen (15) feet wide and not less than six (6) feet high.

**Setback Lines.** Lines established adjacent to highways, lot lines, lakes, and streams or other places for the purpose of defining limits within which any or certain buildings, structures or uses may not be constructed, maintained or carried on, except as shown herein. "Within a setback line" means between the setback line and the highway, lot line, lake or stream to which the setback line is adjacent.

**Sign.** Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place activity, person, institution, business or solicitation, including any permanently installed or situated merchandise. For the purpose of removal, signs shall also include all sign structures.

**Space.** A plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.

**Special Exception.** The use of property, otherwise not a permitted use under the terms of this ordinance, which is allowed by reason of special exception approval may be issued by the Plan Commission under conditions specified in this ordinance.

**Story.** The vertical distance between the surface of any floor and the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

**Story, half.** A story under any roof except a flat roof, the wall plats of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Street.** A public or private thoroughfare which affords a primary means of access to abutting property.

**Street Line.** A dividing line between a street and the abutting lot.

**Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

**Structural Alterations.** Any change in the supporting members, such as bearing walls, columns, purlins, rafters, beams or girders, footings and piles.

**Subdivision.** The division of a lot, parcel or tract by the owner thereof, or his 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 twenty (20) acres or less in area or where the act of division creates five (5) or more parcels or building sites of twenty (20) acres or less in area by successive division within a five (5) year period.

**Travel Trailer/Recreational Vehicle.** A portable vehicle designed and used for temporary sleeping purposes while its occupants are engaged in the pastime of camping.

**Unit.** A mobile home unit.

**Variance.** Permission granted, by the Board of Appeals, to a land owner to build or develop in a manner inconsistent with the dimensional standards established in this ordinance. Petitioner must establish unnecessary hardship, not common to other properties, and not inconvenience as the basis for his/her petition.

**Yard.** An open space (open spaces include spaces with trees and woods, but not structures) on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

**Yard, Front.** An open space extending the full width of the lot between the front lot line and the nearest part of the main building excluding uncovered steps.

**Yard, Rear.** An open space, unoccupied except for accessory buildings extending from the rear lot line to the rear line of the main building for the entire width of the lot line, excluding such projections as are permitted herein.

**Yard, Side.** A yard or open space on each side of the main building extending from the side wall of the building to the side lot line and from the front yard to the rear yard. When an accessory building is constructed as part of the main building or constructed on one side of the main building the side yard requirements shall be the same for the accessory building as required for the main building.

**Zoning Lot.** A parcel of land considered or treated as a single unit. A zoning lot may or may not correspond with a lot of record.

### **CHAPTER 3: GENERAL ZONING**

#### **Section A. INTRODUCTION AND EXPLANATION**

1. This chapter contains the general zoning provisions and indicates what uses may be made of property, the permissible lot size, height of buildings and dimensions of required yards and open space. It divides the area to which it applies into **six (6)** districts. Each district has its own set of rules on use, yard space, lot size and building height.

2. The locations of the five (5) districts are shown on the official town zoning maps available in the Zoning Administrator's office, the Town Clerk's office and the Town Hall.
3. Within most districts there are listed "permitted uses" and "special exceptions." Permitted uses are uses which are allowed in that district provided that the property owner obtains a permit by showing that the proposed use is listed as a permitted use. Special exceptions are uses that are allowed only after the Planning Commission reviews the proposed use, holds a public hearing and decides whether to approve, based upon the application of standards found in this ordinance.
4. The fact that a use is shown as a permitted use does not always mean that the project may proceed. The County Sanitary or Shoreline Ordinances, the Subdivision Ordinance (5), or other sections of this ordinance may result in a permitted use not being allowed to proceed, depending upon the manner in which those provisions apply.

**Section B. GENERAL PROVISION ON HEIGHT AND AREA**

1. No part of a yard or other open space provided about any buildings for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
2. Every dwelling erected in the town shall provide a minimum four hundred (400) square feet. The square footage to be measured using the area of the first floor and all additional floors. The basement can be included if it has an entrance directly accessible to the outside, or least one (1) window that is not over four (4) feet above the basement floor. Every Principal Commercial Structure erected in the town shall be a minimum eight hundred (800) square feet.
3. When a lot has an area less than the minimum number of square feet per family, as required for the district in which it is located, and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family subject to the setback, rear yard and side yard requirements for the district.
4. The regulations contained throughout this chapter relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:
  - a. Church, schools and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet or five (5) stories, provided the front, side and rear yards required in the district in which such a building or structure is to be located are each increased at least one foot for each additional foot of height above the height limit otherwise established for the district.
  - b. Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, microwave radio relay or broadcasting towers, masts or aerials, farm silos, barns and other farm structures and necessary mechanical appurtenance are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the town, County, or of other jurisdictions such as the Federal Aviation Administration.

- c. Facilities subject to paragraph a. and b. above require a zoning permit to be issued by the Zoning Administrator. Before issuing the permit, the Zoning Administrator shall investigate and determine whether any such facility, which is to exceed 35 feet in height above ground level, will create or may create fire protection problems.
  - d. Upon a written determination that such problems may result, the request for a permit shall be referred by the Administrator to the Plan Commission, which shall invite fire or other public safety officials to appear and offer recommendations. The Commission may attach such conditions, as it deems reasonable and necessary based upon advice of fire and public safety officials to the granting of the permit.
5. Lot sizes, permitted and special exception uses, and other regulations regarding open space developments are contained in Chapter IX of this Ordinance.

## **Section C. DISTRICTS**

For the purpose of general zoning, there are created **six (6)** types of districts. All land zoned under this chapter shall be designated as one of the following types:

### **1. RESIDENTIAL DISTRICT.**

The Residential District is created to establish and protect the essential characteristics of areas within which predominantly low-density residential use should occur, along with certain community and recreational uses to serve the residents of the district. Multiple family residential uses shall be allowed as special exception uses where permitted by the Planning Commission upon application of standards intended to protect the public interest.

#### **Permitted Uses.**

- (1) Single family dwellings.
- (2) Churches, public and private schools.
- (3) Renting a single-family dwelling to a single-family unit, provided there is a lease agreement of a minimum of seven (7) days in length.
- (4) Public buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of roads building maintenance equipment.
- (5) Accessory buildings, including private garages, **boathouses** and buildings clearly incidental to the residential use of property, except that no accessory building, other than a bunkhouse, may be used as a separate dwelling unit.
- (6) Gardening, orchards and nurseries for propagation of plants and trees (including fences and other associated structures.
- (7) Swimming pools, above or below ground.
- (8) Storage Containers so long as they are not visible to neighbors or from a public road.
- (9) Chickens and other poultry for personal or family use.
- (10) Renting any property, or portion of any property, as a transient lodging (excluding hotel or motel). In this section, transient means any person residing for a continuous period of less than seven (7) days.
- (11) Public parks and playgrounds, including swimming pools with proper fencing, golf courses, tennis courts and picnic grounds. Such uses shall contain sufficient yard area to provide a buffer space and adequate parking facilities according to the following guidelines:
  - (a) No yard shall be less than twenty-five (25) feet wide, except that no yard need be provided adjacent to the fairways and greens of golf courses.

- (b) Each yard shall be increased for the following:
  - [1] Swimming pools larger than forty (40) feet by sixty (60) feet, one (1) foot additional yard for each two (2) feet of width or length of the pool in the direction of the additional width or length.
  - [2] Picnic grounds having seating arrangements for more than forty (40) persons, ten (10) feet of additional width on every yard for each additional ten (10) persons or fraction thereof which such picnic ground is designated for or equipped to accommodate.
  - [3] Any such yard which abuts on a public street or highway may be reduced by  $\frac{1}{2}$  the width of such street or highway, but in no case to less than fifteen (15) feet.
  - [4] Each such yard be left in its natural condition and the natural vegetation of the area, including grasses, flowers, shrubs and trees, except no noxious plants, trees, or weeds shall be allowed to grow and develop, or other vegetation of equivalent density shall be planted therein, so as to provide a natural screen between the park or playground and neighboring residential areas, and so that such yards be, so far as possible, unused and unusable for the general purposes of such parks and playgrounds.
  - [5] The above regulations shall be mandatory as applied to any park or playground established by an agency within the Town of Apple River.
- (12) Telephone, telegraph and power distribution poles, lines and necessary appurtenance equipment and structures, such as transformers, unit substations and related equipment housing, but no service garage or storage yards.
- (13) Minor Home Occupations listed in Section D of this Chapter.
- b. Minimum Lot Area.

Buildings or other parts of buildings hereafter erected or structurally altered for single or two (2) family dwelling purposes shall provide a lot area of not less than one (1) acre.
- c. Height.
  - (1) No building shall be more than three (3) stories or thirty-five (35) feet in height, whichever is greater.
  - (2) Residential buildings may be increased in height by not more than ten (10) feet or one (1) story when all yards and other required open spaces are increased in width by one (1) foot for each foot in height by which such buildings exceed the normal height limit of the district.
- d. Side Yard.
  - (1) There shall be a side yard on each side of a building. The minimum permitted side yard width shall be ten (10) feet. The highway setback regulations in Chapter 9 shall apply to all corner lots.
  - (2) For lots less than eighty (80) feet wide and of record as such at the date of the passage of this chapter, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and no single side yard shall be less than forty (40) percent of the aggregate width. The buildable width of any lot shall not be reduced to less than twenty-four (24) feet.
- e. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet in depth for any main building. Accessory buildings shall be provided with a minimum rear yard of not less than ten (10) feet.
- f. Special Exceptions. The following uses may be allowed as a special exception upon the approval by the Plan Commission as provided in Chapter I.

- (1) Oversized accessory buildings.
- (2) Microwave relay structures, communication towers, electric power transformers.
- (3) Multiple family dwellings or two (2) or more units shall be subject to the provisions of Chapter I. An additional three thousand (3,000) square feet of minimum lot area shall be required for each dwelling unit in excess of two (2). To grant a special exception for multiple family use, the Plan Commission shall find that the following conditions are present:
  - (a) The establishment of the use will not be detrimental to or endanger the public health, safety or general welfare.
  - (b) The use, value and enjoyment of other property in the neighborhood shall be in no foreseeable manner substantially impaired or diminished by the establishment of the use.
  - (c) The establishment of the use will not impede the normal and orderly development of the surrounding property for the uses permitted in the district.
  - (d) Adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided.
  - (e) Adequate measures have been or will be taken to provide ingress and egress to desired as to minimize traffic congestion in the public streets.
  - (f) All current state building codes and requirements.
  - (g) A minimum of two (2) dust free parking spaces, off-road, shall be provided for each unit.
- (4) Professional office, provided that:
  - (a) There shall be no external alterations that would affect a substantial change in the residential character of the building.
  - (b) Not more than fifty (50%) percent of only one floor of the dwelling shall be devoted to such offices.
- (5) Major Home Occupations pursuant to Section D of this Chapter.

## 2. **AGRICULTURAL DISTRICT.**

The Agricultural District is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from residential development and other urban land uses. It is intended to avoid the operational conflicts which occur when farm and non-farm residential uses become interspersed and to reduce the adverse pressures upon farm livelihood caused by speculative land values and consequent increases in property tax levies upon farmlands.

The following lands and the following uses are permitted and special exception uses are permitted with the approval of the Town of Apple River Plan Commission in the Agricultural District and the lands shall be used and buildings or structures constructed, altered, enlarged or used as follows:

- a. **Minimum Lot Size.** The minimum lot size shall be 1 acre. A parcel that is larger than 35 acres may be subdivided to a maximum of 4 parcels and the parcels may be a minimum of 1 acre. Such a subdivision may only be accomplished by Certified Survey Map.

- b. Rear Yard.
  - (1) There shall be a rear yard of not less than twenty-five (25) feet in depth for any main building. Accessory buildings shall be provided with a minimum rear yard of not less than ten (10) feet.
- c. Side Yard.
  - (1) In lots one hundred (100) feet or more in width, the minimum permitted side yard width shall be ten (10) feet.
  - (2) In lots less than one hundred (100) feet wide and of record as such at the date of the passage of this section, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and no single side yard shall be less than forty (40%) percent of the aggregate width. The buildable width of any lot shall not be reduced to less than twenty-four (24) feet.
  - (3) The minimum permitted side yard for an accessory building in the Agricultural District shall be ten (10) feet, provided it is detached from the main building.
- d. Permitted Uses. The Agricultural District shall include permitted uses as follows, except that a minimum lot size of five (5) acres is required for any permitted use involving the raising or maintaining of farm animals other than chickens, ducks, or turkeys. Chickens, ducks, and turkeys up to .25 total animal units are permitted on parcels less than five (5) acres.
  - (1) All uses permitted in the Residential District.
  - (2) One (1) single family dwelling residence occupied by one (1) or more persons, or families, earning a substantial livelihood from the farm operation, except that existing dwellings and related structures, which remain after farm consolidation, on a minimum of five (5) acres are permitted.
  - (3) Accessory buildings, except that no accessory building, other than a bunkhouse, may be used as a separate dwelling unit.
  - (4) Beekeeping.
  - (5) Dairying.
  - (6) Floriculture.
  - (7) Grazing.
  - (8) Livestock raising.
  - (9) Feedlots.
  - (10) Poultry raising.
  - (11) Plant nurseries and orchards.
  - (12) Raising grain, grass, mint, ginseng and seed crops.
  - (13) Raising trees, fruit, nuts, and berries.
  - (14) Sod raising.
  - (15) Transient Lodging not including hotel or motel.
  - (16) Vegetable raising.
  - (17) Viticulture.
  - (18) Forest and game management.
  - (19) Nature trails and walks.
  - (20) Greenhouses.
  - (21) Roadside stands.
  - (22) Minor Home Occupations, per Section D of this chapter.

- (23) Swimming pools, above or below ground.
  - (24) Renting any property, or portion of any property, as a transient lodging. In this section, transient means any person residing for a continuous period of less than seven (7) days in a hotel, motel, or other furnished accommodations available to the public.
  - (25) Combined feedlot, dairying and livestock raising herds of up to four hundred (400) animal units, with on (1) contiguous acre available for grazing, feed production and waste disposal for each animal unit in the combined herd.
- e. Special Exceptions.
- (1) Child Care Facility
  - (2) Churches
  - (3) Commercial Stables
  - (4) Concrete or hot mix plants engaged in public highway related projects provided that such operations are of a temporary nature not exceeding one hundred-twenty (120) days.
  - (5) Event Center
  - (6) Feedlot, dairying, and livestock raising of herds over four hundred (400) animal units, with one contiguous acre available for grazing, feed production, and waste disposal for each animal unit in the combined herd.
  - (7) Feed Mill
  - (8) Governmental uses such as police or fire stations, town halls, highway storage garages, solid waste disposal and sewage treatment plants, schools, public parks and campgrounds, public recreational use, or airports or landing strips.
  - (9) Health Care Facility
  - (10) Hotel or Motel.
  - (11) Implement Dealer
  - (12) Kennels, when located not less than three hundred (300) feet from any lot line shared with premises devoted to residential use, nor closer than one thousand (1,000) feet from any residential building other than that of the owner of the kennel, his agent or employee.
  - (13) Licensed game management as set forth in Chapter 29 of Wisconsin State Statutes.
  - (14) Major Home Occupations pursuant to Section D of this Chapter.
  - (15) Mini Storage. A series of bays, no wider than twenty (20) feet, no longer than forty (40) feet, connected to each other with common walls and separated overhead doors with no utilities. No commercial or retail uses other than the original lease of space is permitted. The retail sale of storage, packing and moving supplies by the owner/operator of the mini storage facility is permitted in the facility office area.
  - (16) Intense Energy Use so long as the total parcel size is at least 200 acres and all such Special Exceptions are subject to Section I(6) of this Ordinance
  - (17) One additional single-family dwelling when occupied by persons earning a substantial livelihood from the single entity owned farm operation.
  - (18) Racetrack or similar uses; provided however, no racetracks or similar uses will be permitted on any parcel unless a racetrack was previously located on that parcel.
  - (19) Restaurants, wineries, taverns, brew pubs, or similar establishments.
  - (20) Utility installations.



### 3. **COMMERCIAL DISTRICT.**

The Commercial district is created to establish and protect locations in which a wide variety of compatible commercial uses may be located. Within this district, residential development, heavy manufacturing and non-retail commercial enterprises are not allowed in the interest of furthering the livelihood of the permitted retail commercial uses and protecting uses from the effects of incompatibility.

a. **Permitted Uses.** Permitted uses must abide by all Town Zoning Ordinances including a. of the Commercial Zoning District Ordinance. Requests to the Town Zoning Administrator in the Commercial Zoning District shall meet the requirements of Chapter I, Section D, g. (1) through (4). Permitted uses shall be reviewed by the Town Zoning Administrator for verified compliance with ordinances, Town Commercial Design Guidelines, and any applicable regulations from both State and County agencies. If a proposed use will involve the selling of goods for a temporary timeframe and meets all of the requirements of the Temporary Vendor Ordinance then that ordinance will govern the proposed use.

The following are permitted uses, provided that the business will be selling goods for these uses that are primarily new items:

- (1) Automotive accessory stores, including service, tires and automotive parts.
- (2) Bakeries.
- (3) Barber or beauty shops.
- (4) Banks and financial institutions.
- (5) Book and stationery stores.
- (6) Cabinet/fixture assembly shop with retail showroom.
- (7) Camera and photographic shops
- (8) Campgrounds, so long as the campground was in existence on or before January 1, 2024, including up to 2 single family homes or mobile homes per 35 acres.
- (9) Clothing and dry goods stores.
- (10) Coin operated laundry establishments.
- (11) Drugstores and pharmacies.
- (12) Electrical, household appliance, radio, television and computer sales and services.
- (13) Equipment rental.
- (14) Event Center.
- (15) Fabric stores.
- (16) Farm implement, machinery, and services.
- (17) Florist shops.
- (18) Fireworks stand.
- (19) Food and convenience shops.
- (20) Furniture and flooring stores.
- (21) Gift and boutiques.
- (22) Gasoline stations and convenience stores primarily used by residents and the traveling public operating automobiles as defined in Section 340.01 (4) of the Wisconsin Statutes.
- (23) Greenhouse when the primary use is the direct selling of retail goods and items to the public.
- (24) Hardware, home improvement, and paint stores.
- (25) Hotels and motels.
- (26) Indoor roller rinks, indoor ice-skating rinks and bowling alleys.
- (27) Interior decorating stores and shops.
- (28) Grocery stores and supermarkets.

- (29) Jewelry stores.
- (30) Health and athletic clubs, including such uses as tennis, racquetball, basketball, swimming, running tracks and exercise rooms.
- (31) Libraries and museums.
- (32) Liquor stores which are for off-sale only.
- (33) Marine sales and service
- (34) Medical and dental facilities and medical supply stores.
- (35) Mini Golf/Go-Karts/Arcades
- (36) Mobile Home Park
- (37) Municipal buildings.
- (38) Museum
- (39) Music stores.
- (40) Office equipment and office supply stores.
- (41) Offices, including both business and professional.
- (42) Optical and eyewear stores.
- (43) Pet shops.
- (44) Photo and art galleries.
- (45) Picture framing and picture stores.
- (46) Swimming pools.
- (47) Restaurants and eating establishments and those having an on-sale liquor license.
- (48) Shoe stores and shoe repair.
- (49) Storage buildings and storage lots, including mini-storage.
- (50) Sporting goods and athletic shops/Indoor gun range or archery range.
- (51) Taverns, wineries, breweries, and similar or related uses or establishments for recreation or entertainment.
- (52) Tennis, racquetball and pickleball courts.
- (53) Transient lodging (not including hotel and motel).
- (54) Theaters, excluding outdoor or drive-in facilities.
- (55) Travel agencies.
- (56) Veterinarian clinics.
- (57) Wild Life Educational Park

c. Special Exceptions. The following are Special Exceptions to which Chapter 1, Section I shall apply.

- (1) Permitted uses with aggregate structure area over 10,000 square feet.
- (2) Changes of use in a non-conforming structure or property. This provision shall not apply if the principal structure involved is legal non-conforming due to the required setback from a highway right of way, as long as the structure meets the setback from the centerline of the road.
- (3) Selling merchandise that is primarily second hand, used, or consignment.
- (4) Antique store.
- (5) Car washes
- (6) Nonresidential day care
- (7) Feed mill
- (8) Funeral home
- (9) Laundromat
- (10) Light manufacturing/distribution/and warehousing.
- (11) Motel/hotel
- (12) Motor Vehicle Dealership

- (13) Outdoor Storage facility
- (14) Ski resort
- (15) Small engine repair
- (16) Tattoo shop
- (17) Truck stop
- (18) Campgrounds

Application requirements. In the case of any commercial application a site plan and facility plan shall be submitted for each new request. Significant changes to any existing commercial use will require site plans and facility plans as part of the application.

d. Lot Size, Yard and Building Requirements.

- (1) A minimum lot frontage of one hundred fifty (150) feet.
- (2) A minimum lot area of one (1) acre.
- (3) Front Yard.
  - (a) The minimum front yard distance from the building or structure to the front lot line shall be according to the setback required by Chapter IV for the class of roadway it abuts.
  - (b) The setback requirement for lots abutting a Class B Highway shall also be required within five hundred (500) feet of the intersection of a Class B Highway and any other Highway. The five hundred (500) feet shall be measured along the right-of-way of any Highway that intersects a Class B Highway.
  - (c) Ordinance. This requirement is effective once the road is constructed.
- (4) Side Yard.
  - (a) Minimum of twenty (20) feet.
  - (b) If building or abutting lots are not constructed with a common wall or with walls contiguous to one another, a side yard of not less than twenty (20) feet shall be provided. Where no side yard is required, an alternative access to the rear yard must be provided.
  - (c) There shall be a side yard of not less than fifty (50) feet along side of any lots in the Commercial District which abuts the side lot line of a lot in a Residential and is not separated there from by a street or alley.
- (5) Rear Yard.
  - (a) There shall be a rear yard of not less than twenty (20) feet in depth.
  - (b) There shall be a rear yard of not less than twenty-five (25) feet on any lot in the Commercial District which abuts the lot line of a lot in a Residential District.
- (6) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard.
- (7) Height. There shall be a maximum building height of forty-five (45) feet. There shall be a maximum of three (3) stories.

4. **INDUSTRIAL and MINING DISTRICT.**

The Industrial District is created to provide a means for the location of industrial and mining uses. Residential and institutional uses which would not be compatible with the permitted industrial or mining uses and which would impede the development of industrially / mining zoned lands for industrial or mining purposes are prohibited.

The purpose of this district is to provide for manufacturing and industrial and mining operations which on the basis of actual physical and operational characteristics would not be detrimental to surrounding areas or create public or private nuisance by reason of smoke, noise, dust, odor, traffic, physical appearance, air, water or thermal pollution or any other environmental degradation.

All new industrial and mining development including additions is subject to site plan review and shall not be allowed unless approved by the Plan Commission and by the Town Board.

Industries requiring outdoor storage of raw materials and/or finished products will be required to provide fencing and screening.

a. Permitted Uses.

- (1) Cabinetry, provided all materials are kept indoors.
- (2) Commercial greenhouses.
- (3) Equipment rental.
- (4) Farm implement, machinery, and services.
- (5) Health and athletic clubs, including such uses as tennis, racquetball, basketball, swimming, running tracks and exercise rooms.
- (6) Mini storage. A series of bays, no wider than 20 feet, no longer than 40 feet, connected to each other with common walls and separate overhead doors with no utilities. No commercial or retail uses other than the original lease of space is permitted. The retail sale of storage, packing and moving supplies by the owner/operator of the mini storage facility is permitted in the facility office area.
- (7) Municipal buildings.
- (8) Salvage Yard / Recycling Center.
- (9) Any uses allowed in the Agricultural District.

b. Special Exceptions.

- (1) Automotive maintenance and mechanical repair facility, excluding collision repair.
- (2) Building material sales and storage.
- (3) Building contractor's offices such as plumbing, heating, glazing, painting, paper hanging, roofing, ventilation, air conditioning, masonry, electrical, and refrigeration. On-site storage for contractor's offices for the related uses is allowable.
- (4) Boat sales, boat repair and boat canvas businesses, provided there is no boat storage, other than boats awaiting repair and boats for sale, on site. All boats shall be screened as to not be visible from adjacent lots.
- (5) Cement manufacture; cement or concrete mixing plants.
- (6) Feed mills and dairy plants.
- (7) Lawn implement and accessories business.
- (8) Manufacture, fabrication, packing and packaging and assembly of products from furs, glass, leather (but not tanning of hides or manufacture of leather), metals, paper (but not the manufacture of paper or pulp), plaster, plastic (but not the manufacture of plastic), textiles and wood (but not the manufacture of paper or pulp). On-site storage of production equipment, materials and trucks and trailers is permissible when such uses are a direct support to the principal use of the site for the manufacturing, compounding, processing, packaging and/or assembly of products and materials; such equipment may only be stored on-site if actively being used.

- (9) Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except meat and meat products, fish and fish products, cabbage products or the vining of peas). On-site storage of production equipment, materials and trucks and trailers is permissible when such uses are a direct support to the principal use of the site for the manufacturing, compounding, processing, packaging and/or assembly of products and materials; such equipment may only be stored on-site if actively being used.
  - (10) Manufacture of furniture, home supplies and appliances, instruments, jewelry, office supplies, pharmaceuticals, sporting goods, and toiletries. On-site storage of production equipment, materials and trucks and trailers is permissible when such uses are a direct support to the principal use of the site for the manufacturing, compounding, processing, packaging and/or assembly of products and materials; such equipment may only be stored on-site if actively being used.
  - (11) Non-metallic mining (other than Intense Energy Uses).
  - (12) Printing and publishing houses and related activities.
  - (13) Rescue and towing service, excluding salvage yards, and providing that no vehicle shall remain on the premises in excess of 90 days. The number of vehicles is subject to the Special Exception. All vehicles shall be screened as to not be visible from adjacent lots.
  - (14) Sale of new utility, recreational, camper and agricultural trailers and pick-up truck accessories to accommodate 5th wheels.
  - (15) School bus garage facilities.
  - (16) Scientific research, investigation, nonhazardous testing or experimentation
  - (17) Warehousing of perishable or nonperishable products, provided that the products are owned by or consigned to the owner of the principal use or a lessee, and further provided that said owner or lessee does not establish such principal use in the capacity of a carrier for the purpose of a freight operation or terminal for trucking operations.
  - (18) Welding shops.
  - (19) Machine shops.
  - (20) Other uses similar in character to the permitted uses, giving due consideration to such items as smoke, noise, dust, noxious or toxic gases and odor, traffic and parking, safety, hours and type of operation, glare, physical appearance, air, water or thermal pollution or any other environmental degradation.
  - (21) Intense Energy Uses.
- c. Special Exception Review Procedures  
Application Requirements. In a case of any industrial application a site plan and facility plan shall be submitted for each new request. Significant changes to any existing industrial use, other than a permitted use, will require Plan Commission and Town Board review as a special exception and will require site plans and facility plans as part of the application.
- d. Lot Size, Height and Yard Requirements.
- (1) The minimum lot size shall be one and a half (1 ½) acres and one hundred fifty (150) feet of road frontage.
  - (2) No building shall be more than two and a half (2 ½) stories or thirty-five (35) feet high, whichever is greater.

- (3) The side yard, for buildings or parts of buildings erected, moved or structurally altered for industrial use, measured from the building or structure to the lot line, shall be not less than twenty (20) feet, except:
  - (a) If buildings on adjoining lots are constructed with a common wall or with walls contiguous to one another, no side yard is required, provided that an alternative access to the back yard is provided.
  - (b) There should be a side yard of not less than fifty (50) feet along the side of any lot in the industrial district which abuts the side lot line of a lot in a residential district and is not separated there by a street or an alley.
- (4) The minimum front yard distance from the building or structure to the front lot line shall be according to the setback required by Chapter IV for the class of roadway it abuts.
- (5) The minimum rear yard distance from the building or structure to the lot line shall be twenty (20) feet. It shall not be less than fifty (50) feet in depth if:
  - (a) Such rear yard abuts a residential or commercial district and such district boundary line does not lie within a street, alley or railroad right-of-way or;
  - (b) Such rear yard is to be used for open storage and will contain stockpiles, storage piles or water; an equipment storage yard, or other accumulations of material or equipment.
- (6) Any property line abutting a residential or commercial district must be suitably screened, with a minimum vegetative screening belt not less than fifteen (15) feet deep and six (6) feet high at the time of planting. All plans for screening of the industrial properties shall first be reviewed by the Town Plan Commission with a recommendation forwarded to the Town Board. The Town Board shall have final approval of the screening for ongoing maintenance, repair and necessary replacement of the screening methods utilized to assure ongoing compliance with the original approval granted by the Town of Apple River. In addition to screening, fencing may be required by the Town Plan Commission or Town Board depending on property, its use, or the uses of neighboring properties.

## 5. **CONSERVATION DISTRICT**

The conservancy district is established to protect and preserve the natural state of certain areas such as low land swamps, marshes, wetlands, stream beds, slopes, bluffs, wooded areas, water areas and other areas of aesthetic value for the benefit of this and future generations. In this district, no building shall hereafter be erected, moved or structurally altered except to be used in conjunction with permitted uses.

### a. **Permitted Uses.**

- (1) Forest and game management.
- (2) Forest reserves, wilderness and wildlife areas.
- (3) Harvesting wild crops such as berries and seeds.
- (4) Hunting and fishing.
- (5) Other uses such as: soil and water conservation practices, stream bank protection, water restriction and contact provided that such uses do not involve structures, fill, soil or peat removed, or disruption of the natural flow of any water course or altering the natural topography.
- (6) Public lands, parks and publicly owned campgrounds.

b. Permitted Accessory Uses.

- (1) Non-habitable park or recreational shelters.
- (2) Structures used in or accessory to a fish hatchery.
- (3) Structures used to traverse lowlands and water courses.

c. Special Exception Uses and Structures.

- (1) Structures and fill accessory to permitted principal uses.
- (2) Privately owned campgrounds and accessory structures.
- (3) Public shooting ranges and accessory structures.
- (4) Fish hatcheries, rising of minnows, waterfowl and other lowland animals and accessory structures.

d. Lot Area, Setback and Yard.

- (1) Minimum dimensions: Lot area - ten (10) acres.
- (2) There are no lot width requirements.
- (3) Any use involving a structure shall provide front and rear yards of at least fifty (50) feet in depth and side yards of at least fifty (50) feet in width each.

6. **Hamlet District.**

Purpose and intent. The goal of this district is to allow for land uses that mimic a rural, unincorporated village setting and allow for continuance of that settlement pattern. To allow for smaller lots sizes in areas served by community sewer systems. In addition, this district will allow for mixed uses of residential and commercial as was typical of the historical development pattern of rural hamlets.

a. Permitted uses. The following uses are allowed or permitted:

- (1) All allowed and permitted uses in Residential
- (2) All uses permitted in the Commercial District.

b. Special Exceptions. Special Exception Uses include all Special Exceptions permitted in the Residential district and other similar and compatible use as determined by the Board of Appeals.

7. **Shoreland.**

Notwithstanding anything to the contrary set forth in this Ordinance, if a Property Owner is required to obtain (and does actually obtain) a land use permit from Polk County pursuant to Polk County's Shoreland Ordinance provisions, then that land use permit shall also be sufficient as the Town's Land Use Permit under this Ordinance and the Property Owner shall not be required to obtain an additional land use permit from the Town.

**Section D. HOME OCCUPATIONS**

1. **PURPOSE.**

The purpose of this section is to protect residential and agricultural areas from adverse impacts of activities associated with home occupations. To permit residents of the community an opportunity to conduct a business at their place of residence and establish criteria and develop standards for home occupations conducted in dwelling units and accessory structures in the Residential, Transition and Agricultural Districts.

2. INTENT.

The intent of this section is to provide for certain types of restricted occupational uses within the Residential and Agricultural Districts which:

- a. are incidental to the use of the premises as a residence or a farm;
- b. are compatible with residential or agricultural uses;
- c. are limited in extent; and
- d. do not detract from the residential or agricultural character of the neighborhood.

3. DEFINITIONS.

- a. A home occupation is defined as any business or commercial activity that is conducted on property that is zoned for Residential, Transition, or Agricultural use.
- b. A minor home occupation is a home occupation authorized by this section without a hearing or permit.
- c. A major home occupation is a home occupation that is authorized as a special exception by the Plan Commission of the Town of Apple River.
- d. A nonconforming home occupation is one that was established and maintained prior to the effective date of this section but is no longer allowed because of the application of this section or any amendment hereto.

4. GENERAL STANDARDS.

The following standards shall apply to all home occupations:

- a. The person principally responsible for the home occupation must reside at the location of the proposed home occupation.
- b. All home occupations shall be clearly incidental and secondary to the use of a dwelling or accessory structure for residential or agricultural purposes.
- c. Home occupations may be open to the public.
- d. A home occupation shall have adequate off-street parking spaces available to compensate for additional parking needs generated.
- e. Home occupations shall not produce noise or objectionable odors, vibrations, glare, fumes or electrical interference detectable beyond the lot line of the parcel on which the home occupation is located.
- f. Home occupations shall not illegally discharge any materials, fluids or gases into the sewer system or into an on-site waste disposal system nor discharge such items in violation of any applicable government code.

5. MINOR HOME OCCUPATION.

A home occupation shall be considered a minor home occupation that is allowed without a permit or hearing, provided that said home occupation conforms to all of the following standards.

- a. No person other than a resident of the principal dwelling may be engaged or employed in a minor home occupation.
- b. Interior or exterior business signs shall be limited to six (6) square feet.
- c. The area set aside for the home occupation shall not exceed twenty (20%) percent of the total floor area of such residence.
- d. There shall not be conducted on the premises the selling of stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled on the premise. That is, the direct sale of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.



- e. Parties for the purpose of selling merchandise or taking orders shall not be held more than four (4) times each month.
  - f. Permitted minor home occupations include, but are not limited to, the following:
    - (1) Dressmaking, sewing and tailoring;
    - (2) Painting, sculpturing or writing;
    - (3) Telephone answering or marketing;
    - (4) Home crafts for sale off-site;
    - (5) Tutoring for one student at a time;
    - (6) Home cooking and preserving for sale off-site;
    - (7) Computer programming, data entry or other data processing services;
    - (8) Secretarial services;
    - (9) Accounting and bookkeeping services.
6. MAJOR HOME OCCUPATIONS.
- a. A major home occupation is any proposed or existing home occupation that does not meet the standards for a minor home occupation and may only be allowed in the Agricultural Districts.
  - b. A major home occupation may only be authorized as a special exception by the Plan Commission following the provisions of Chapter I of this ordinance. Special exception permits for major home occupations shall not be granted when it appears to the Plan Commission that the proposed home occupation will constitute a fire hazard to neighboring property owners, will adversely affect neighboring property values, or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, noise, odors or other circumstances.
  - c. In order to guarantee that a major home occupation, once authorized, will not become a nuisance to the neighbors or otherwise violate these guidelines, the Plan Commission may impose reasonable conditions necessary to protect the public health, safety and welfare.
  - d. In addition to any specific conditions imposed by the Plan Commission, all major home occupations shall also meet all of the following standards:
    - (1) Major home occupations must be conducted within the principal dwelling or permitted accessory structure.
    - (2) Major home occupations may not be located within five hundred (500) feet or any preexisting neighboring residence.
    - (3) Interior or exterior business signs shall be limited to one sign not to exceed six (6) square feet that conforms to all other sign regulations otherwise provided in this ordinance.
    - (4) No more than two (2) persons other than a resident of the principal dwelling may be employed or engaged in a major home occupation.
    - (5) The area set aside for the major home occupation shall not exceed twenty (20%) percent of the total floor area of the principal dwelling. Where an accessory structure is used, the total floor area dedicated to the home occupation, including any area used in the dwelling, shall be limited to one thousand (1,000) square feet. The Plan Commission shall determine an appropriate maximum square footage for the specific proposed home occupation as part of its review.
    - (6) Only merchandise directly incidental to a service provided may be displayed or sold within the dwelling or structure used for a major home occupation.

- e. Special exception permits for major home occupations granted by this section shall be temporary in nature and shall be granted to a designated person who resides at the location of the home occupation. They are not transferable from person to person or from address to address.
  - f. Applications for major home occupation special exception permits shall be filed with the Town Zoning Administrator with an application fee provided in the Schedule of Fees Ordinance, made payable to the Treasurer of the Town of Apple River. The application shall be forwarded to the Plan Commission for public hearing. All such hearings shall be posted as Class 2 notices, and at public meetings of the Town of Apple River. Legal Notice shall be given to adjoining landowners as required for other special exceptions.
7. GENERAL PROVISIONS.
- a. Transfers. Should a home occupation permit holder (special exception permit holder) die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation, the Plan Commission may authorize continuation of that permit upon written request without further hearing.
  - b. Revocation. Special exception permits for a major home occupation, once granted, shall be revoked by the Plan Commission, for cause, after hearing before the Plan Commission. All such revocations shall be administered in accordance with Chapter I of this ordinance.
  - c. Abatement. Any nonconforming home occupation shall be discontinued or comply with all the applicable provisions of this section within one year after the home occupation first became nonconforming.
  - d. Penalties and Fines. Penalties for failure to apply for an applicable permit or failure to comply with the provisions of this ordinance or the conditions for such permit shall be as prescribed in the Town's Fees and Penalties Ordinance.

#### **Section H. TRAVEL TRAILER/RECREATIONAL VEHICLE USE**

Travel trailers and recreational vehicles are considered camping units for the purpose of this section.

Use and storage of travel trailers and recreational vehicles.

- a. The zoning district must allow a single-family residence on that lot or parcel of land as an allowable use.
- b. The subject lot or parcel of land has a dwelling or principal structure.
- c. One travel trailer is allowed to be used on a lot 14 out of 60 days without a permit, unless subsection (d) or (e) of this section apply.
- d. An annual, seasonal permit may be obtained from the town clerk's office which would allow for the utilization of the travel trailer or recreational vehicle on the subject property from May 1 through December 1 annually. From December 2 to April 30 may only be used a total of 14 days. To obtain the above seasonal permit, the following requirements apply.
  - 1. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) regulations.
  - 2. Must meet all setbacks on property for an accessory structure.
  - 3. May not be used as a primary residence.
  - 4. Can remain on the property for storage December 2 through April 30.
- e. One travel trailer or recreational vehicle may be placed on a property for more than 14 days in any 60 consecutive days if a seasonal permit is obtained and all the following criteria are met:
  - 1. The property owner has at least 10 acres in one lot or parcel or parcels adjacent to each other with common ownership.
  - 2. The travel trailer will not be used as a permanent residence.

3. The setbacks required for an accessory building are met.
4. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) regulations.

## **CHAPTER 4: HIGHWAY SETBACKS AND ACCESS**

### **Section A.      INTRODUCTION AND EXPLANATION**

This chapter establishes rules requiring structures to be set back from streets and highways in all districts throughout the Town including shore lands subject to County Shoreland Zoning, where Town Zoning is more restrictive. It also categorizes all streets and highways and provides setback lines for each category and limits highway access.

### **Section B.      GENERAL SETBACK PROVISIONS**

SETBACKS. The setback distances from the center line at any point for the respective classes of highways shall be as follows:

- Class C Highways, Town Roads, 63 feet
- Class B Highways, County Roads, 75 feet
- Class A Highways, State Trunk Roads, 110 feet

Provided, however, that in no case shall the distance of the setback line outside of and from the nearest point of the Right of Way line of the highway be less than the following:

- Class C Highways, Town Roads, 42 feet
- Class B Highways, County Roads, 42 feet
- Class A Highways, State Trunk Roads, 50 feet

## **CHAPTER 5: NUISANCES**

### **Section A.      PROHIBITION OF PUBLIC NUISANCES**

Whoever by his act or failure to perform a legal duty, intentionally maintains or permits a condition which unreasonably injures, or endangers the safety or health of the public or does any other act or omission declared by law to be a public nuisance is guilty of violating this chapter. Nuisances include, but are not limited to, the following:

- (1) Failure to keep waste, tires, refuse or garbage in an enclosed building or properly contained in a closed container designed for such purposes;
- (2) Failure to maintain a structure so as to avoid health hazards;
- (3) Allowing any discharge into the environment of toxic or noxious materials in such concentrations as to endanger the public health;
- (4) Causing or allowing the effluent from any cesspool, septic tank, drainfield or sewage disposal system to discharge upon the surface of the ground;
- (5) Causing or allowing the contamination of any well, cistern, stream, lake or other body of water by sewage, waste or other materials or substances;

- (6) Maintaining excessive numbers of pets that result in a health hazard to either the animal or human inhabitants;
- (7) Allowing an accumulation of debris, such as wood, metal, tires, glass or brush;
- (8) Abandoned vehicles or vehicle parts;
- (9) Accumulation of unused appliances;
- (10) Holes or excavations which constitute a safety hazard;
- (11) Excessive noise;
- (12) Abandoned wells not properly sealed;
- (13) Manmade ponds or pools containing stagnant water;
- (14) Failure to comply with any law or rule regarding sanitation and health, including, but not limited to, plumbing, water supplies, including wells and surface waters, waste disposal, and storage of chemical pesticides or herbicides.

## **Section B      ENFORCEMENT**

- (1) It is the duty of the town board, town chair and/or zoning administrator to enforce the provisions of this chapter and the town chair may designate individuals to assist the town from time to time to enforce the provisions of this chapter, including the power to inspect private premises, issue orders for abatement, issue citations for violations, and abate nuisances.
- (2) The officers charged with the enforcement of this chapter shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

## **Section C      ENFORCEMENT PROCEDURES**

- (1) Whenever, in the judgement of the enforcement officer, it is determined upon investigation that a public nuisance is being maintained or exists with the county, such officer shall notify in writing the person committing or maintaining such nuisance and require him to terminate and abate the nuisance and to remove such conditions or remedy such defects.
- (2) The written notice shall be served upon the person committing or maintaining the nuisance in person or by registered mail. If the premises are not occupied, and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises.
- (3) The notice shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time to abate and remove the nuisance. The maximum time for the removal of the nuisance after service of the notice shall not in any event exceed 30 days. Service of notice may be proved by filing an affidavit of service with the county clerk setting forth the manner and time thereof.

(4) The enforcement officer may issue a citation for violation of this chapter, at the time the notice is served, or any time thereafter, until the order to abate has been complied with.

(5) If, after service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the order of the health committee, the health committee may cause such nuisance to be abated at the expense of the board and recover such expenditure by civil action against the person or persons served; or, if service has been had upon the owner or occupant, by ordering the clerk to extend such sum as a special tax against the property upon which the nuisance existed and to certify the same to the county for collection in the same manner as taxes and special assessments are certified and collected.

#### **Section D. PENALTIES.**

Any person who shall cause or create a nuisance or permit any nuisance to be created or placed upon, or to remain upon any premises owned or occupied by him, and any person who shall fail to comply with any order made under the provisions of this chapter, upon conviction thereof, shall be punished by a forfeiture of not more than \$200.00 for each day the nuisance continues, together with the costs of prosecution, and in default of payment thereof may be confined in the county jail until the forfeiture and costs are paid but not to exceed 90 days.

### **CHAPTER 6: EFFECTIVENESS**

#### **Section A. SEPARABILITY AND CONFLICT**

If any chapter, section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. All ordinances or part of ordinances inconsistent with or contrary hereto are hereby repealed, except, nothing in this ordinance shall be interpreted so as to conflict with state laws or orders or any of the requirements of any ordinance of the Town of Apple River not mentioned or made inapplicable by the express terms of this ordinance.

#### **Section B. EFFECTIVE DATE AND REPEALS**

##### **1. EFFECTIVE DATE OF THE CHANGES.**

This ordinance will become effective coincidentally with the latest of the required actions listed below.

- a. Enactment by the Town Board, and
- b. Approval by the Polk County Board of Supervisors, and
- c. Publication of the ordinance or a summary complying with the law.

**TOWN OF APPLE RIVER**

**Polk County, Wisconsin**

**Resolution 25-03**

**A RESOLUTION RE-ADOPTING TOWN ZONING ORDINANCE.**

**WHEREAS**, the Town Board of the Town of Apple River, Polk County, Wisconsin, passed Resolution 24-02 approving enactment of a Town Zoning Ordinance ("Original Zoning Ordinance");

**WHEREAS**, the Town Board of the Town of Apple River, Polk County, Wisconsin, passed Resolution 24-05 approving enactment of amendments to the Original Zoning Ordinance ("Amendments" and together with the Original Zoning Ordinance, the "Zoning Ordinance");

**WHEREAS**, due to clerical error, the Resolutions enacting the Original Zoning Ordinance and the Amendments were not published; and

**WHEREAS**, the Town desires to re-adopt, re-enact, approve, ratify and confirm the Zoning Ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Apple River hereby approves, adopts, enacts, ratifies and confirms the Zoning Ordinance in the form attached hereto as Exhibit A;

**BE IT FURTHER RESOLVED**, that the Clerk of the Town of Apple River to timely publish the Zoning Ordinance consist with Wisconsin law and take whatever actions are reasonably necessary to carry out the forgoing resolutions.

Dated this 23<sup>rd</sup> day of April 2025

  
Kerry Bryan, Town Chairman

  
Attest: Lisa Carlson Town Clerk

Approve By:   X   Roll Call Vote

  2   Yeas;    Nays    Absent / Abstain