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# TOWN OF SARATOGA

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## ZONING ORDINANCE



No. 04-20-16  
Public Hearing 05-10-2023  
Approved by Town Board 10-04-2023  
Approved by Wood County 10-04-2023

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## **1. TITLE, AUTHORITY, COMPREHENSIVE PLAN, AND PURPOSE**

- 1.1. **Title:** This ordinance is entitled “Town of Saratoga Ordinance No: 10-04-2023 Zoning Ordinance,” and may be referred to as the Zoning Ordinance.
- 1.2. **Statutory Authority:** The Town of Saratoga’s statutory authority to adopt and enforce a zoning ordinance is set forth in Wisconsin Statutes sections 60.61 and 60.62, which incorporate Wisconsin Statutes sections 61.35 and 62.23 by reference. The Town Meeting has granted general and continuing village powers and zoning authority to the Town Board.
- 1.3. **Comprehensive Plan:** The Town Board approved the Town’s comprehensive plan in August 2007 (amended 10-04-2023) following an extensive planning effort, community participation and advice from a professional land-use consulting firm. The Town of Saratoga Comprehensive Plan 2007-2025 (“Comprehensive Plan”) was adopted in accordance with Wisconsin’s “Smart Growth” law and Wisconsin Statute section 66.1001. The Comprehensive Plan included a recommendation that the Town adopt a zoning ordinance in 2012. The zoning ordinance is intended to support and implement the goals, objectives, policies, and recommendations set forth in the Comprehensive Plan.
- 1.4. **Purpose of Zoning Ordinance:** This zoning ordinance has been adopted to promote the health, safety, and general welfare of the Town of Saratoga, through the regulation of land use. The ordinance establishes zoning districts of such number, shape, and area as are deemed best suited to meet the purpose and goals of the Town’s land use and planning objectives. Within these districts, the ordinance regulates the location and use of buildings, structures and open space, and the height and size of buildings and other structures. The ordinance also provides for administration and enforcement of the land use regulations set forth in the ordinances and Comprehensive Plan.
- 1.5. **Appendix:** The Appendix attached to this ordinance includes maps, forms and references that are hereby made a part of this ordinance as set forth in full herein and may be updated and supplemented by resolution of the Town Board.

**2. DEFINITIONS.** The terms set forth in this section, wherever they occur in this ordinance, shall be interpreted as defined below. Words and phrases not defined in this section or elsewhere in this ordinance shall be construed by reference to the Wisconsin Statutes, Wisconsin zoning case law, other states' zoning case law, the dictionary and common usage, in that order of preference.

- 2.1. **Access, Controlled (Road or Facility):** A controlled access road or facility is defined as a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason. Such highways or streets may be freeways open to use by all customary forms of surface transportation.
- 2.2. **Accessory or Auxiliary Use or Structure:** A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same piece of land. The accessory use or structure is serving a purpose customarily incidental to the use of the principal building or land use and is often called a detached garage.
- 2.3. **Agricultural Use:** Agricultural use is any of the following activities conducted for the primary purpose of producing an income or livelihood: crop or forage production, keeping livestock, beekeeping, nursery or sod production, floriculture, aquaculture, fur farming, or enrolling land in a federal, agricultural commodity payment program or a federal or state agricultural land conservation payment program. For purposes of this zoning ordinance, agriculture does not include forestry. (*See definitions of "forestry" elsewhere in this section.*)
- 2.4. **Airport:** Any runway, landing area, airport or other facility designed, used or intended to be used either publicly or privately by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangers or other necessary buildings and open spaces.
- 2.5. **Alley, Trail, or Lane:** A public private way, usually around 30 feet wide, affording, generally secondary means of access to abutting property owners and not intended for general traffic circulation.
- 2.6. **Apartment:** (*See definition of "dwelling" elsewhere in this section.*) One or more rooms in a dwelling designed and intended for occupancy as a separate dwelling unit.
  - 2.6.1. **Apartment, efficiency:** A dwelling unit in a multi-family building consisting of not more than one habitable room, together with kitchen or kitchenette and toilet facilities.
  - 2.6.2. **Apartment, hotel:** An apartment house that furnishes services for the use of its tenants, which are ordinarily furnished by hotels.

- 2.7. **Automobile:** For purposes of this ordinance, the term “automobile” includes cars, trucks, farm machinery and ancillary equipment.
- 2.8. **Automobile Body Shop:** Overall painting or a paint shop for motor vehicles; collision services; steam cleaning. Mechanical automobile repair does not fall within the general definition of automobile body shop, but rather is a separate use and is termed “automobile repair” in this ordinance. The reason for separating these uses relates to potential differences in ventilation needs and impacts on air quality. An applicant may request both uses on one site, in which case the more restrictive requirements would apply to any zoning permit or conditional use permit.
- 2.9. **Automobile Repair:** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair, vehicle steam cleaning. Overall painting or a paint shop for motor vehicles does not fall within the general definition of automobile repair, but rather is a separate use and is termed an “automobile body shop” in this ordinance. (*See automobile body shop definition in this section.*)
- 2.10. **Automobile or Trailer Sales Area:** An open area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.
- 2.11. **Automobile Salvage Yard:** Any area of land where two or more inoperative vehicles, and/or accumulation of parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for the wrecking or storing of such motor vehicles and/or accumulation of parts thereof.
- 2.12. **Automobile Service Station or Filling Station or Gas Station:** A building or other structure or a tract of land where gasoline or similar fuel, stored only in underground tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a gas station: the dispensing of oil, greases, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor servicing and repair to the extent of installation of the items enumerated above and washing of automobiles. Other activities shall be prohibited, including, but not limited to: upholstering work, auto glass work, painting, welding, tire recapping, auto dismantling, and auto sales. (*See also Convenience Store.*)
- 2.13. **Basement:** That portion of any structure whose floor line is below ground line and has more than half of its clear height below the finished ground line.
- 2.14. **Board of Appeals:** The Town of Saratoga Zoning Appeals Board. (*See also Town Board, which does not serve as the Board of Appeals.*)

- 2.15. **Boarding or Rooming House:** A dwelling or part thereof consisting of a single housekeeping unit where meals and lodging are provided for three or more persons, not transients, for compensation by previous arrangement.
- 2.16. **Building:** Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, equipment, materials or machinery.
- 2.16.1. **Building, height of:** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
- 2.16.2. **Building setback line:** The line outside the right-of-way of a street beyond which no building or part thereof shall project and no accessory structure built, except as otherwise provided by this ordinance. Building setback lines are measured using the same standards for measurement as those used and set forth in the Town Building Code, and such standards are incorporated by reference as if set forth fully herein.
- 2.16.3. **Building, floor area ratio:** The floor area of the building divided by the area of the lot on which it is or will be located. The floor area of the building shall include that area of ground covered by the roof of the building. Total floor area shall include the sum of the floor areas of all buildings on the lot.
- 2.16.4. **Building, completion:** The building shall be considered complete when roofing materials, siding materials, window, doors and steps have been affixed to the exterior and the interior supplied with electricity, plumbing and heating fixtures in operable condition and in conformance with applicable codes.
- 2.17. **Buildable Lot Area:** That part of the lot not included within the open areas required by this ordinance.
- 2.18. **Business:** Any lawful commercial endeavor to engage in the manufacturing, purchase, sale, lease, or exchange of goods and/or the provision of services.
- 2.19. **Campgrounds:** Any public or private premises, including buildings, established for temporary day and overnight habitation by persons using equipment designed for the purpose of temporary camping.
- 2.20. **Camping Vehicle:** A vehicle with a collapsible, folding, or rigid structure designed for temporary human habitation and self-propelled or towed by a motor vehicle upon a highway. (*See also Recreation Vehicle.*)
- 2.21. **Cemetery:** Land used or intended as use for the burial of the human dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- 2.22. **Channel:** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

- 2.23. **Clinic:** A place used for the care, diagnosis and treatment of sick, ailing, and injured persons or animals and those who need medical or surgical attention, but where people are not provided with board or room nor kept overnight on the premises. Animals may be kept overnight at veterinary clinics.
- 2.24. **Club:** An association of people who are organized for some non-commercial common purpose. Examples of clubs are the Boys and Girls Club, the Local History Club, the 4-H Club and the Gardening Club. A group organized solely or primarily to render a service customarily provided by a commercial enterprise is not a club.
- 2.25. **Comprehensive Plan:** The Town's community development plan entitled "Town of Saratoga, Wood County, Wisconsin Comprehensive Plan 2007-2025", as adopted or amended under Wisconsin Statute 62.23 and in accordance with Wisconsin Statute 66.1001, to guide and coordinate development in the Town of Saratoga, in accordance with existing and future needs, promoting public health, safety and general welfare, protecting the natural resources and planning for efficiency and economy in the process of development.
- 2.26. **Conditional Use:** *See Use, Conditional.*
- 2.27. **Convenience Store:** A small store or shop which may also be associated with the sale of motor vehicle fuel and stocking a range of everyday items such as groceries, toiletries, bakery goods, beverages, food items, limited household items and automotive supplies. Convenience stores may also have automobile washing facilities. Convenience stores may not provide automobile repair or painting services.
- 2.28. **Court:** An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three or more sides.
- 2.29. **Cryptocurrency, Crypto-currency, or Crypto:** A digital currency designed to work as a medium of exchange through a computer network that is not reliant on any central authority, such as a government or bank to uphold or maintain it.
- 2.30. **Cryptocurrency Mining or Crypto Mining:** A process that results in the creation of Cryptocurrencies as well as verifying, validating, and adding transactions to a public Record called a blockchain. Types of Crypto Mining include but not limited to CPU Mining, GPU Mining, Cloud Mining and ASIC Mining.
- 2.31. **District:** A portion of the Town where certain uniform regulations and/or requirements or combinations of both apply according to the provisions of this ordinance and as may be specified on the Town's Official Zoning Map as adopted by the Town Board of Supervisors.
- 2.32. **Density:** The ratio of living units per acres allowable under a schedule of district regulations.
- 2.33. **Dwelling:** Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, camping trailer, trailer, or trailer coach, hotel or motel.
- 2.33.1. **Dwelling, single family:** A building designed for or used exclusively for residence purposes by one family or housekeeping unit.



- 2.33.2. **Dwelling, two family:** A building designed for or used exclusively by two families or housekeeping units. (Examples are Duplex, Mother-In-law suites, etc....).
- 2.33.3. **Dwelling, multi-family:** A building or portion thereof designed for or used by three or more families or housekeeping units.
- 2.33.4. **Dwelling group:** A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.
- 2.33.5. **Dwelling unit:** One room, or a suite or two or more rooms designed for or used by one family for living and sleeping purposes and having kitchen and toilet facilities.
- 2.34. **Easement:** Authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property. For example, although dedication is generally preferable, a public right-of-way may also be established by easement.
- 2.35. **Factory-Built Home:** Any structure built in a factory and designed for long-term residential use including:
  - 2.35.1. **Manufactured Homes:** Homes built in the factory in compliance with The Federal Manufactured Home Construction and Safety Standards of June 15, 1976, as defined in Wisconsin Statutes 101.91(2), (am). (*The term “mobile home” is often used to describe any manufactured home regardless of when it was built.*)
  - 2.35.2. **Modular Homes:** Factory-built homes built to the state, local or regional code where the home will be located. Modules are transported to the site and installed.
  - 2.35.3. **Panelized Homes:** Factory-built homes in which panels (a whole wall with windows, doors, wiring and outside siding) are built on site or transported to the building site and assembled. These homes must meet state or local building codes.
  - 2.35.4. **Pre-Cut Homes:** Factory-built homes in which building materials are factory-cut to design specifications, transported to the building site and assembled. Pre-cut homes include kit, log and dome homes. These homes must meet local and state building codes.
- 2.36. **Family:** A group of people living together in one (1) dwelling unit as a single housekeeping entity.
- 2.37. **Flood:** See Wood County Shoreland Zoning Ordinance for definitions of floodplain, flood profile, flood proofing, flood stage and floodway.
- 2.38. **Forestry:** The science, art, and craft of creating, managing, using, and conserving forests and associated resources in a sustainable manner to meet desired goals, needs, and values for human benefit. Modern forestry generally embraces a broad range of uses, including timber as raw material for wood products, Christmas trees, wildlife habitat, natural water quality management, recreation, landscape and community protection, employment, aesthetically appealing landscapes, biodiversity management, watershed management, erosion control, and preserving forests as 'sinks' for atmospheric carbon dioxide. Forestry includes silviculture, a science that involves the growing and tending of trees and forests. (*See definition of “Agriculture” in this section*)

- 2.39. **Frontage:** That boundary of a lot, which is along an existing or dedicated public right-of-way such as a street, or, where no public street exists, is along another public way.
- 2.39.1. **Multi Street Frontage:** Where a lot abuts more than one street, the Plan Commission shall determine the frontage for purposes of this ordinance.
  - 2.39.2. **Frontage where measured:** For construction purposes, minimum frontage requirements set forth in Section Five (5) of this ordinance shall be met at the front building line.
- 2.40. **Garage:** A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles, trailers and/or equipment.
- 2.40.1. **Garage Apartment:** A structure being part of a private garage in which provision is made for one dwelling.
  - 2.40.2. **Garage, Attached:** A garage attached to a principal building is called an attached garage.
  - 2.40.3. **Garage, Detached:** A detached building, often called an accessory building, intended for use by the occupants of the residential principal structure for storage (not for commercial use).
  - 2.40.4. **Garage, Private:** A detached building or a portion of the principal building used or intended for use by the occupants of the premises for the storage of vehicles or trailers, but not commercial vehicles or trailers.
  - 2.40.5. **Garage, Public:** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor driven vehicles. The term repairing shall not include an automotive body repair shop nor the rebuilding, dismantling or storage of wrecked or junked vehicles.
- 2.41. **Grade:** The average level of the finished surface of the ground adjacent to the exterior walls of a building.
- 2.41.1. **Grade, existing:** The vertical elevation of the ground surface prior to excavating or filling.
  - 2.41.2. **Grade, finished:** The final grade of the site that conforms to the approved plan as required by this ordinance.
  - 2.41.3. **Grade, natural:** The existing grade of elevation of the ground surface that exists or existed prior to man-made alterations.
  - 2.41.4. **Grade, percentage of:** The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance. (Twelve feet of change in elevation in 100 feet horizontal distance is a 12% grade.)
- 2.42. **Hardship:** The term “hardship” has a particular legal meaning when used in this ordinance. It is used here when determining whether the requisite hardship exists to support granting a “variance”<sup>1</sup> to provisions of this ordinance. The meaning of the term “hardship” will depend on future definition, interpretation, and application by the Wisconsin legislature and courts. (*See the Appendix for additional information on current interpretations of hardship and variances.*)

- 2.43. **High Water Line; Ordinary High- Water Mark:** *See* Wood County Shoreland Zoning Ordinance.
- 2.44. **Home Occupation:** A business, profession, trade, or employment carried on by an occupant of a residential building or a use secondary to the residential use of the building, and which does not change the residential nature of the building nor the neighborhood or have any exterior evidence of such secondary use other than a small sign, not exceeding 2 sq. ft. in area. A home occupation does not include the outside storage of materials, goods, or equipment, nor the employment of more than one paid assistant other than the occupant and the occupant's family.
- 2.43. **Hotel/Motel/Lodge:** An establishment that provides lodging and usually meals, entertainment, and personal services for its guests. A Hotel is a building with interior corridors that the various rooms are off of. A Motel is short for Motor Hotel. It does not have interior corridors, and a Lodge is either, usually a hotel, in a rustic area and the building itself is also rustic.
- 2.44. **Household Unit:** A group of persons who live together in one dwelling unit as a single housekeeping unit to the exclusion of all others.
- 2.45. **Industrial:** A business use or activity at a scale greater than home occupation involving manufacturing, fabrication, assembly warehousing, and/or storage.
- 2.46. **Industry:** The manufacture, fabrication, processing, preparation or treatment of any article, substance, or commodity. These sites could include indoor or outdoor storage of materials, truck storage yards, warehouses, wholesale storage, and other similar types of enterprise. For purposes of this zoning ordinance, nonmetallic mining is not an industry. (*See definition of "nonmetallic mining" in this section.*)
- 2.47. **Junkyard:** A place where waste, and discarded, recycled, or salvaged materials are disassembled, handled or recycled, including auto wrecking activities, building wrecking activities, and places for storage of salvaged equipment, materials, and parts, but not including places where such uses are conducted entirely within a completely enclosed building and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in working condition, building reclamation materials or salvaged materials incidental and necessary to manufacturing operations.
- 2.48. **Kennel:** A kennel is any premise, or portion thereof, where dogs, cats or other household pets are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purposes of sale.
- 2.49. **Laundromat:** A business that provides washing, drying and/or ironing machines for hire to be used by customers on the premises.
- 2.50. **Loading Space:** An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

- 2.51. **Lot:** A parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this ordinance and having frontage on an officially approved street or deeded access.
- 2.51.1. **Lot area:** The area of contiguous land bound by lot lines, inclusive of land provided for public thoroughfares but not including any area occupied by the waters of a lake, creek, or river.
  - 2.51.2. **Lot, corner:** A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines in the “corner.”
  - 2.51.3. **Lot, depth:** The mean horizontal distance between the front and the rear lot lines.
  - 2.51.4. **Lot, interior:** A lot other than a corner lot.
  - 2.51.5. **Lot, line:** A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.
  - 2.51.6. **Lot line, Zero:** Any residential development where in the lot line is a common or party wall.
  - 2.51.7. **Lot of record:** A lot which is part of a subdivision, the map of which has been approved by the Wood County Planning and Zoning Commission, as of the effective date of this ordinance, shall have the same status as if the said subdivision plat was officially recorded in the office of the Register of Deeds; however, no building permit shall be issued for any lots in such subdivision until a final plat which includes such lots, has been officially recorded in the office of the Register of Deeds.
  - 2.51.8. **Lot, through:** A lot having frontage on two parallel or approximately parallel streets.
  - 2.51.9. **Lot width:** The mean width of the lot measured at right angles to its depth.
- 2.52. **Minor Structure:** Any small, movable accessory structure or construction such as birdhouses, tool houses, pet houses, play equipment, and arbors, including walls and fences under four feet (4') in height.
- 2.53. **Mobile Home or Manufactured Home:** *(See also definition of Factory-Built Homes.)*
- 2.53.1. **Manufactured Home, length/width:** The distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms, excluding bay windows, porches, drawbars, couplings, hitches, wall, and roof extensions, or other attachments. Width means the distance from the exterior of one sidewall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms, excluding bay windows, porches, wall, and roof extensions, or other attachments.
  - 2.53.2. **Manufactured Home Lot:** A parcel of land or a portion of a manufactured / mobile home park designed for the placement of a single manufactured home (mobile Home) and the exclusive use of its occupants.

- 2.53.3. **Manufactured Home Park:** A parcel of land under single ownership designed, maintained, intended, or used for the purpose of providing a location and accommodations for two or more manufactured homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the park or its facilities.
- 2.53.4. **Mobile Homes:** A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid collapsible construction, which has an overall length in excess of 45 feet. "Mobile Home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.
- 2.54. **Motor Home:** A motorized vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the internal characteristics and equipment like a manufactured home.
- 2.55. **Motor Vehicle:** Any self-propelled vehicle capable of transporting persons or goods.
- 2.55.1. **Motor Vehicle, inoperable:** Any motorized vehicle incapable of immediately being driven and/or not properly licensed in accordance with state law.
- 2.55.2. **Motor Vehicle, junk:** Any motor vehicle, trailer, or semitrailer that is inoperable and which, by virtue of its condition cannot be economically restored to operable condition, provided that such vehicle, trailer or semitrailer shall be presumed to be a junk vehicle if no license plates are displayed or if the license plates displayed have been invalid for more than 60 days.
- 2.56. **National Register of Historic Places:** The listing maintained by the U.S. National Park Service of areas that have been designated as historically significant. The Register includes places of local and state significance, as well as those of value to the nation in general.
- 2.57. **Nonconforming Lot:** A lot, which had dimensions or square footage, that met legal requirements prior to the adoption, amendment, or comprehensive revision of a zoning ordinance, but which fails to conform to the current requirements of this ordinance.
- 2.58. **Nonconforming Structure:** A structure which met legal requirements prior to the adoption, amendment or comprehensive revision of a zoning ordinance, but which fails to conform to the current requirements of this ordinance.
- 2.59. **Nonconforming Use:** A use which existed lawfully prior to the adoption, amendment or comprehensive revision of a zoning ordinance, but which fails to conform to the current requirements of this ordinance.
- 2.60. **Nonmetallic Minerals:** A product, commodity or material consisting principally of Naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, and talc.

2.61. **Nonmetallic Mining** is defined by any or all the following:

- Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such mater.
- Manufacturing or industrial processing operations that may involve the use of equipment for the crushing, screening, separation, washing, drying, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site, or from materials transferred from off-site.
- Manufacturing processes aimed at producing nonmetallic products for sale or use by the Operator.
- Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
- Transporting of the extracted nonmetallic materials, finished products or waste materials to or from the extraction site and/or processing site(s).
- Stockpiling, storing, or processing of nonmetallic products for transportation including trucking terminals and rail terminals whether located on or off of the mine site.
- Disposal of waste materials from nonmetallic mining
- Reclamation of the extraction site

2.62. **Nursing Home:** A home in which three or more persons not of the immediate family are received, and provided with shelter and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care for the sick or injured.

2.63. **Outdoor Storage:** Storage of merchandise, goods, inventory materials, equipment or other items which are not intended for immediate sale locating them on a parcel exterior to a building not to include sale or staging.

2.64. **Parking Area or Lot, Public:** An open area, other than a street or other public way, used for the parking of motorized vehicles and available to the public whether for a fee, free or as accommodation for clients or customers.

2.65. **Parking Space:** A surfaced area of not less than one hundred eighty (180) square feet, having a minimum width of nine (9) feet and a minimum length of eighteen (18) feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

2.66. **Person:** Any individual, firm, trust, partnership, public or private association or corporation; or an individual, partnership, firm, company, corporation, municipality, county, town, state or federal agency, whether tenant, owner, lessee, licensee, or their agent, heir, or assignee.

- 2.67. **Planned Unit Development (PUD):** A form of land development permitted after following the procedures for creating a planned unit development district as provided in this ordinance. The planned unit development district is designed to allow variation in the types and arrangements of land uses and structures in developments conceived and implemented as cohesive, unified projects.
- 2.68. **Principal Building:** The building of primary importance on a parcel of land, in contrast to those which are accessory or of secondary importance. In the case of a house and attached garage, the entire structure, including the house and garage, shall be considered the principal building.
- 2.69. **Recreational Area:** A park, playground, ball field, ski hill, sport field, swimming, pool, riding stables or riding academies or other facilities and areas constructed for recreational activities and open for use by the public or a private organization.
- 2.70. **Recreation Vehicle (RV):** See section 2.20 of this ordinance entitled “Camping Vehicle.”
- 2.71. **Resort:** An area containing one or more permanent buildings utilized principally for the accommodation of the public for recreation purposes.
- 2.72. **Riding Stables or Riding Academies:** Buildings or premises used for the rent or lease of horses or other animals for riding.
- 2.73. **Right-of-Way:** A public or private area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, streets, bike paths, alleys, and walkways. A public right-of-way is a right-of-way that is dedicated or deeded to the public for public use or otherwise under the control of a public agency.<sup>2</sup>
- 2.74. **Roadside Stand:** A temporary structure designed and constructed so that the structure is easily portable and can be readily moved.
- 2.75. **Sales Area:** An open area, other than a street, used for the display, sale, or rental of new or used merchandise (including motorized) in operable condition and where no repair is done.
- 2.76. **Sanitary Landfill:** The term “sanitary landfill” has the meaning set forth in Wisconsin Statutes Chapter 289.01 (20) and (35), as may be amended from time to time.
- 2.77. **Service Building:** A structure housing toilet, washing and bathing facilities and such other facilities as may be required by this ordinance.
- 2.78. **Setbacks:** *See Building Setbacks. 2.16.2*
- 2.79. **Short-term Rental:** A residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days. *\*(ref Short-Term Rental Ordinance)*
- 2.80. **Solar Energy:** Direct radiant energy received from the sun.
- 2.81. **Solar Energy System:** Equipment, which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

<sup>2</sup>For Example, although dedication is generally preferable, a public right-of-way may also be established by easement.

- 2.82. **Slaughterhouse:** Any building or premises used for the killing or dressing of fowl, cattle, sheep, swine, goats or horses, and the storage, freezing and curing of meat and preparation of meat products.
- 2.83. **Special Exception**<sup>3</sup>. For purposes of this ordinance, the term “special exception” means a variance issued in accordance with the “Variances” section of this ordinance. Although some statutes and cases use the term “special exception” to mean a conditional use, for the purposes of this ordinance, a “special exception” is not a conditional use. Conditional use is defined in this “Definitions” section and issued in accordance with the “Permits and Inspections” section of this ordinance.
- 2.84. **Stable, Commercial:** A stable for horses, donkeys, mules, or ponies, which are let, hired, used or boarded on a commercial basis and for compensation.
- 2.85. **Stable, Private:** An accessory building for the keeping of horses, donkeys, mules or ponies owned by the occupant of the premises and not kept for remuneration, hire or sale.
- 2.86. **Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above it.
- 2.87. **Street:** A public right-of-way which provides a public means of access to abutting property. The term street shall include avenue, drive, circle, road, trail, parkway, boulevard, lane, place, highway, thoroughfare or any similar term.
- 2.87.1. **Arterial Street:** A public street or highway intended primarily for fast or heavy through traffic use. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways, and parkways.
- 2.87.2. **Collector Street:** A public street intended to serve and provide access to neighborhoods or sub-neighborhoods.
- 2.88. **Structure:** Anything constructed or erected, the use of which requires a foundation or a location on or in the ground. It includes but is not limited to objects such as buildings, decks, and pools etc.
- 2.88.1. **Permanent:** A structure, which is built, of such materials and in such a way that it would commonly be expected to last and remain useful for a substantial period.
- 2.88.2. **Temporary:** A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life or is built for a purpose that would commonly be expected to be relatively short term.
- 2.88.3 **Structure alteration:** Any change in the component members of a building, such as walls, columns, beams or girders.
- 2.89. **Subdivision:** See Wood County Land Subdivision Ordinance and Saratoga Land Division Ordinance.

<sup>3</sup> Note: Wisconsin courts sometimes use the terms “conditional use” and “special exception” interchangeably. Historically, the term “conditional use” often referred to land *uses* and the term “special exception” referred to exceptions to dimensions and similar requirements set forth in a zoning ordinance. The term “conditional use” is preferred in this ordinance, and the historical distinction between conditional uses and special exceptions is no longer intended or relied upon in this ordinance. Variances are sometimes referred to as “special exceptions.” The term variance is preferred in this ordinance. *See also, definition of “special exceptions.”*



- 2.90. **Town Board:** The Board of Supervisors of the Town of Saratoga.
- 2.91. **Use:** The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be occupied or maintained.
- 2.91.1. **Use, conditional<sup>3</sup>:** A use listed in the zoning ordinance that may be allowed but only if found compatible following examination of a specified location, neighboring uses, limitations of the site, impact on natural resources, the health, safety and general welfare of Town residents, and the purposes of the zoning ordinance. Authorization of a conditional use is discretionary and must be determined on a case-by-case basis. Conditions may also be attached upon any approval, including regular review for compliance and impacts, expiration dates and renewal requirements, and limitations as to time and manner of operation.
  - 2.91.2. **Use, incompatible:** A use or service that is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.
  - 2.91.3. **Use, nonconforming:** See Nonconforming use.
  - 2.91.4. **Use, permitted** (permitted as of right): A use listed in the zoning ordinance that is allowed 'by right' at all locations in a zoning district, provided that the project or use complies with the general standards for the zoning district, any overlay district or design standards, and related building or construction codes. Authorization of a permitted use is non-discretionary and may be authorized with a zoning permit or confirmed with a zoning certificate of compliance.
  - 2.91.5. **Use, prohibited or unlisted:** A use that is not allowed in a zoning district because it is not expressly listed or is specifically prohibited by the zoning ordinance.
- 2.92. **Variance:** A zoning variance authorizes a landowner to establish or maintain a use that is prohibited in the zoning ordinance. Zoning variances represent a departure from the terms of this ordinance where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.
- 2.93. **Vision Clearance Triangle:** An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connections points determined by measurement from the corner of each street line.
- 2.94. **Wind Energy System:** Equipment that converts and then stores or transfers energy from the wind into usable forms of energy.
- 2.95. **Yard:** A required open space other than a court, or a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance.
- 2.95.1. **Front Yard:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot as required in the district where located.

- 2.95.2. **Front Yard, how measured:** The depth of the front yard shall be measured from the right-of-way line of the existing street on which the lot fronts (the front Lot Line); provided, however, that if the proposed location of the right- of-way of such street as established on the Official Thoroughfare Plan or Major Street Plan differs from that of the existing street, then the required front yard depth shall be measured from the right-of-way line of such street as designated on the said Thoroughfare Plan or Major Street Plan.
- 2.95.3. **Rear Yard:** A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot as required in the district where located.
- 2.95.4. **Side Yard:** A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot as required in the district where located.
- 2.95.5. **Side Yard, least width, how measured:** Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if the proposed location of the right-of-way line of such street as established in the Thoroughfare Plan differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as designated on the Thoroughfare Plan.
- 2.96. **Water Storage Facility:** A water tower, tank or similar vessel, which is part of a high capacity well.
- 2.94. **Well, High Capacity:** A well or other water supply or water system whose operating capacity singly or in the aggregate with that of other wells on a property will be in excess of 70 gallons per minute, as defined in Wis. Admin. Code NR 812.07 (53).

**3. DISTRICTS.** The following zoning districts are established:

**Residential Districts**

Residential Suburban District (RS-1)  
Rural Residential District (RR-1)  
Manufactured (Mobile) Home District (MH)

**Commercial Districts**

Light Commercial District (LC)  
Highway Commercial District (HC)  
General Industry District (ID)

**Rural Preservation District (RP)**

**Farmland Preservation District (FP)**

**Planned Unit Development Districts – Residential (PUD)**

**Overlay Districts**

Conservation subdivision Overlay District (CS-O)  
Historic District Overlay (H-O)  
Natural Resources Preservation and Floodplain Overlay (NRP-O)  
Development Constraints Overlay District (DC-O)

- 4. ZONING DISTRICT MAPS.** The location and boundaries of the zoning districts are hereby established as shown on the map(s) entitled “Town of Saratoga Zoning Map” on file in the Town Office, and referred to as the Zoning Map. The Town Zoning Official and Plan Commission shall periodically update the Zoning Map to show changes in the zoning district boundary lines resulting from amendments to this ordinance. Where any uncertainty exists as to the exact location of zoning district boundary lines, the Plan Commission, upon written application thereto, shall determine the location of such boundary lines. The Zoning Map, together with all information shown thereon and all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein.

## **5. RESIDENTIAL ZONING DISTRICTS <sup>4</sup>**

### **5.1. RESIDENTIAL SUBURBAN DISTRICT (RS-1)**

**PURPOSE:** The RS-1 Residential Suburban District was established to provide the population density and uses primarily for single family living which is expected to accommodate the numerous residential developments already at the density of this District. This District is to be located consistent with the Town Comprehensive Plan.

#### **5.1.1. Permitted Uses in RS-1 District.**

- a. One single family dwelling per acre, Duplex requires minimum 2 acres
- b. Accessory buildings / garage<sup>4</sup>
- c. Home Occupations

#### **5.1.2. Conditional Uses in RS-1 District**

- a. Home occupations with same limitations as in RR-1 District.
- b. Libraries, museums, and art galleries
- c. Churches and their affiliated uses (use being less than 1 acre and adjacent)
- d. Wireless Communication Facility

<sup>4</sup> Note: Attached garages are not counted against allocation of accessory building / garage space limitation (10% lot coverage).

### 5.1.3. RS-1 Residential Suburban District Standards

|  |   |
|--|---|
| a. Maximum building height                             |   |
| Principal Building                                     | 35 ft.  |
| Accessory Building                                     | 25 ft.  |
| b. Maximum front yard setback                          |   |
| Principal building                                     | 30 ft. adjacent to town road <sup>5</sup><br>50 ft. adjacent to county or state highways                  |
| Accessory building                                     | Same as principal building  |
| c. Minimum rear yard setback                           |   |
| Principal building                                     | 25 ft.  |
| Accessory building                                     | 9 ft.   |
| d. Minimum side yard setback                           |   |
| Principal building                                     | 9 ft. from adjoining lot, or<br>30 ft. from adjacent town road, or<br>50 ft. from county or state highway |
| Accessory building                                     | Same as principal building  |
| e. Minimum lot area                                    | 1 acre (43,560 sq. ft.)<br>2-acre min. for a Duplex   |
| f. Lot Frontage/width                                  | 75 feet<br>Duplex - 150 feet min.   |
| g. Off-street parking                                  |   |
| One- and two-family residence                          | See Section 14  |
| Place of public gathering                              | See Section 14  |
| h. Maximum Lot Coverage                                | Primary Building 20%, Accessory Buildings 10%   |
| i. Residential Floor Area (Minimum)                    | 235 square Feet   |
| i. Outside Storage                                     | see 2.62A   |
| j. Detached Garage/Accessory Buildings                 | 10% of total lot size   |
| k. Minimum Distance between Driveway and property Line | 10 feet (min)   |

### RESIDENTIAL SUBURBAN (RS-1)

#### LOT STANDARDS

|                       |                             |    |
|-----------------------|-----------------------------|----|
| Lot Area (min)        | 1 acre / 2-acre (duplex)    | A  |
| Lot width (min)       | 75 feet / 150 feet (Duplex) | B  |
| Street Frontage (min) | 75 feet / 150 feet (duplex) | C  |
| Water Frontage (min)  | Determined by Wood County   | -- |

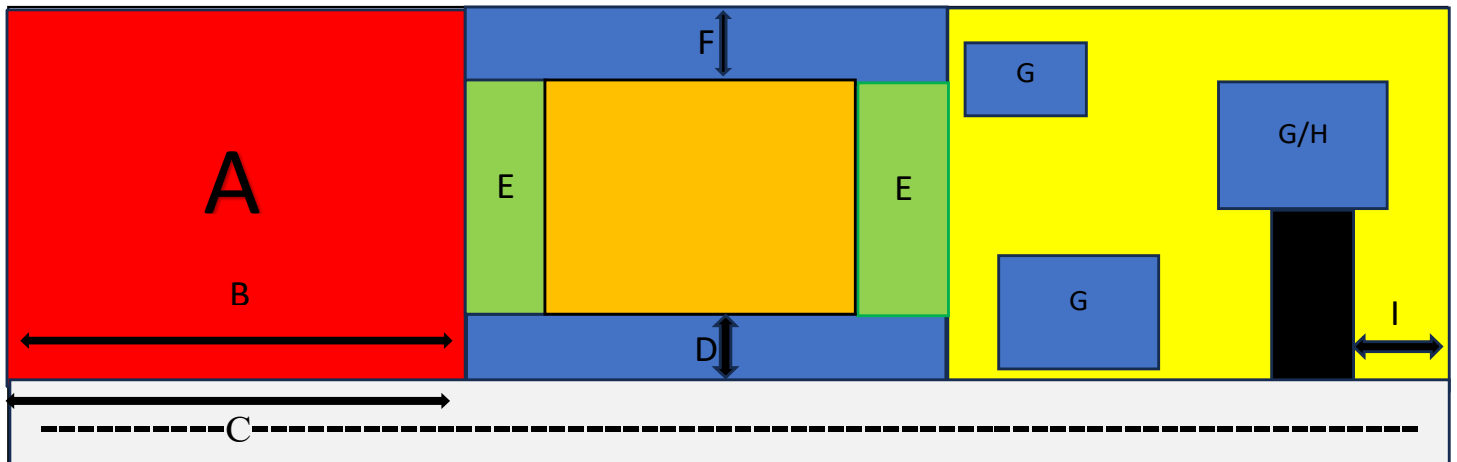
#### BUILDING SETBACKS

|                  |  |   |
|------------------|--|---|
| Front Yard (min) | 30 Feet (50 feet from State Road)                        | D |
| Side Yard (min)  | 9 feet (30 feet from Town Road, 50 feet from State Road) | E |
| Rear Yard (min)  | 25 feet (9 feet – accessory building / det. Garage)      | F |

#### BUILDING STANDARDS

|   |  |    |
|---|--|----|
| Maximum Height                              | 35 feet (Principal Building), 25 feet (Accessory Building)   | -- |
| Building Coverage (max)                     | 20% (Principal), 10% (Accessory Buildings / Detached Garage) | G  |
| Residential Floor Area (min)                | 235 square feet  | -- |
| Floor Area of Attached Garage               | included in Principal Building Coverage                      | -- |
| Distance between Driveway and Property line | 10 feet  | H  |

### Single Family / Duplex



A – Lot Area  
B - Lot Width  
C - Street Frontage

D - Front Yard Setback  
E - Side Yard Setback  
F – Rear Yard Setback

G - Building Coverage  
H - Floor Coverage  
I – Distance between driveway  
and property line

#### 5.1.4. Home Occupations

- a. **Permitted Uses:** A home occupation shall be a permitted use in the RS-1 district, with no conditional use permit required, if all the following are true:
- 1) There may be only one unrelated person engaged in the home occupation other than the occupant and the occupant's family residing on the premises.
  - 2) There are no visible indications other than a business sign, that a home occupation is being conducted on the premises.
  - 3) Any sign advertising the home occupation is no larger than 6 square feet. (See Sign Ordinance 06-18-2014)
  - 4) No outside storage results from the home occupation
  - 5) No more than 25% of the gross area (including all floor levels) of the dwelling and no more than 25% of the combined floor area of all attached or detached garages or accessory buildings is used for the home occupation.
  - 6) The home occupation creates no offensive noise, vibration, sound, smoke, dust, odors, heat, glare, x-rays, or electrical disturbance to radio, television or wireless communications.
  - 7) The home occupation does not result in any nuisance to the public, such as, generation of substantial volume of vehicular or pedestrian traffic, or parking demand.
- b. **As Conditional Uses:** A home occupation may be allowed as a conditional use in the RS-1 district, and shall require a conditional use permit, if any of the following apply:
- 1) The home occupation does not comply with the requirements for a permitted use set forth in this subsection above.
  - 2) The home occupation includes parking of a semi-trailer (with or without a tractor).
- c. **Not Permitted:** The following activities are not considered home occupations and shall not be permitted in the RS-1 district:
- 1) Any activity, which includes explosives, fireworks, or repair of motor vehicles
  - 2) Barbershops or beauty shops with more than one unrelated operator; mechanical repair or welding shops; antique shops; restaurants; dance studios, and uses listed as conditional uses in a Commercial District.
  - 3) Any activity which, even with conditions and limitations, is not consistent with the purpose of the RS-1 district and has a high likelihood of creating conflicts within the district

<sup>5</sup> Note: All references to roads, streets or highways refer to the right-of-way, not the paved portion of the roadway.

## 5.2. **RURAL RESIDENTIAL DISTRICT (RR-1)**

**PURPOSE:** The RR-1 (Rural Residential District) was established to provide for lower density residential land usage and accessory uses, particularly in fringe areas of the town, to be applied in those areas of the town where less density is desired. A further purpose is to help preserve the open areas of space and natural scenic and ecological qualities in special areas such as along shorelines or other areas identified by the Plan Commission and otherwise consistent with the town Comprehensive Plan.

### 5.2.1. **Permitted Uses in the RR-1 District**

- a. Single family dwelling – 3 acres, Duplex – 5 acres
- b. Detached Garages / accessory buildings will not occupy no more than 10% of the total lot size.
- c. Uses customarily incident to any of the above provided that no such customarily incident use generates traffic or noise that would create a public or private nuisance.
- e. Home occupations meeting the criteria set forth in Section 5.1.4 (see above)

### 5.2.2. **Conditional Uses in the RR-1 Rural Residential District**

- a. Libraries, museums, and art galleries
- b. Graded Schools
- c. Churches and their affiliated uses (on one (1) acre or less adjacent to church)
- d. Public buildings, except sewage plants, garbage incinerators, warehouses, municipal garages, municipal shops and storage yards
- e. Kennels as defined in this ordinance
- f. Commercial stables
- g. Forestry uses
- h. Other similar and compatible uses in accord with the purpose of this district as determined by the Plan Commission to be in accord with the purpose of this ordinance.
- i. Wireless Communications facility



5.2.3. **RR-1 Rural Residential District Standards**

|   |  |
|---|--|
| a. Maximum building height                              |  |
| Principal building                                      | 35 ft.   |
| Accessory building                                      | 25 ft  |
| b. Minimum front yard setback                           |  |
| Principal building                                      | 30 ft adjacent to town road  |
|   | 50 ft adjacent to county or state highway  |
| Accessory building                                      | Same as principal building   |
| c. Minimum rear yard setback                            |  |
| Principal building                                      | 25 ft  |
| Accessory building                                      | 9 ft. min. or based on height of structure height is min setback for side, whichever is greater. |
| d. Minimum side yard setback                            |  |
| Principal building                                      | 9 ft from adjoining lot or 30 ft from adjacent town road, 50 ft from county or state highway     |
| Accessory building                                      | 9 ft. min. or based on height of structure height is min setback for side, whichever is greater. |
| e. Minimum lot area                                     | 3 acres – single family<br>5 acres min. for a Duplex   |
| f. Lot frontage   | 75 feet min on street (Lot width 300 ft.)<br>300' frontage on street for a Duplex                |
| g. Off Street parking                                   |  |
| Dwelling  | See section 14   |
| Place of Public gathering                               | See section 14   |
| h. Maximum Lot Coverage                                 | No more than 30% of the total lot  |
| Principal Building                                      | Maximum 20% of parcel size   |
| Detached garage / Accessory Buildings                   | Maximum 10% of parcel size   |
| i. Outside Storage                                      | See Definitions 2.63   |
| j. Residential Min Floor area                           | 235Square feet   |
| k. Minimum Distance between driveway and property lines | 20 feet  |
| l. Lot Width  | Avg. 300 feet, with a ratio no greater than 4 to 1   |

## RURAL RESIDENTIAL – RR-1

### Lot Standards

|                       |  |   |
|-----------------------|--|---|
| Lot Area (min)        | Single family - 3 acres / duplex 5 acres | A |
| Lot Width (min)       | see Saratoga Land Division Ordinance     | B |
| Street Frontage (min) | 75 feet / 150 feet Duplex                | C |
| Water Frontage (min)  | As determined by Wood County             | D |

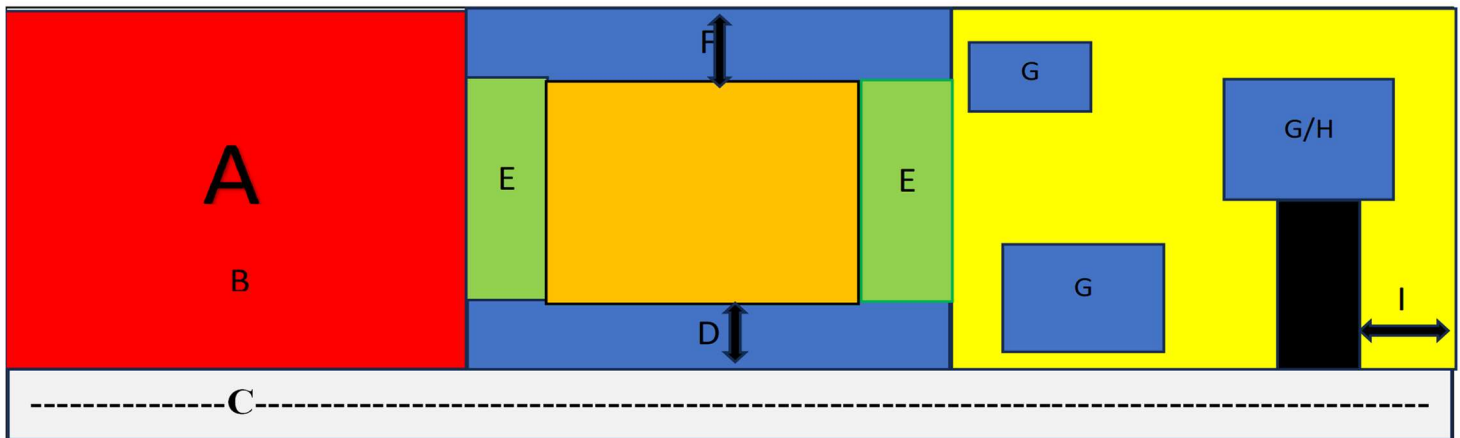
### Building Setbacks

|                  |   |   |
|------------------|---|---|
| Front Yard (min) | 30 feet (50 feet State Highway)   | E |
| Side Yard        | 9 feet minimum (or based on height of structure<br>Height for side setback measurement) | F |
| Rear Yard (min)  | 25 feet   | G |

### Building Standards

|   |   |    |
|---|---|----|
| Height (Max)                                | dwelling – 35 feet / Accessory / Det Garage – 25 feet | H  |
| Structure lot coverage                      | dwelling – 20% / Accessory / Det Garage – 10%         | -- |
| Distance between driveway and property line | 20 feet   | I  |

## Single Family / Duplex



A – Lot Area  
B - Lot Width  
C - Street Frontage

D - Front Yard Setback  
E - Side Yard Setback  
F – Rear Yard Setback

G - Building Coverage  
H - Floor Coverage  
I – Distance between driveway  
and property line

## **6. COMMERCIAL ZONING DISTRICTS**

### **6.1. LIGHT COMMERCIAL**

**PURPOSE:** Light Commercial areas are those lands that are delineated as existing commercial and are mixed with existing residential uses. The LC District is associated with minor development nodes along a major transportation network. The primary intent of these areas is to allow future small commercial developments, or mixed-use developments, in areas that can accommodate the associated traffic demands while not creating land use compatibility issues with surrounding uses. The scale and size of buildings and associated parking, and outdoor display areas is expected to be compatible with that of existing uses and smaller than building sizes and associated uses within the Highway Commercial areas. The district boundaries for parcels with 75 feet of frontage on STH 73, shall extend from the respective right-of-way 330 feet in depth or to the rear lot line whichever is less. The LC District boundary may be extended for those parcels that have a depth greater than 330 feet to a depth of 412 feet or to the rear lot line whichever is less.

#### **6.1.1. Permitted Uses in LC District**

- a. Small retail stores and shops such as, but not limited to; gift shops, art gallery, variety and household appliance stores.
- b. Small service businesses such as, but not limited to; barbers, beauticians, florists.
- c. Offices for business and professional firms.
- d. Other retail stores and shops and small businesses catering to local patronage, compatible with the intent of the Light Commercial District, and not endangering the health, safety, and general welfare to local residents or detrimental to the value of any property.
- e. Some uses are permitted in both the LC and HC Districts, all development in the LC District must comply with the intent stated in 6.1 above.
- f. Other similar and compatible uses which are determined by the Plan Commission to be in accord with the purpose of this ordinance.

**6.1.2. Conditional Uses in LC District.** The Plan Commission, as a conditional use, may consider businesses that do not fully comply with the stated intent in 6.1, with final approval by the Town Board.

- a. Residential development as allowed in the underlying/nearby Residential Suburban (RS – 1) District.
- b. Greenhouses and nurseries
- c. Recreation facilities
- d. Storage rental units
- e. Commercial and private stables
- f. Crypto-Currency operations
- g. Wireless Communications Facility

## 6.2. **HIGHWAY COMMERCIAL DISTRICT (HC)**

**PURPOSE:** Highway Commercial areas those properties delineated as existing commercial or are likely places of highway commercial expansion (i.e., near existing commercial corridors or near major intersections). The primary intent of these areas is to allow for some larger commercial developments near compatible uses that can accommodate the associated traffic demands. The scale and size of buildings and associated parking and outdoor display areas is expected to be similar to that of existing uses and larger than building sizes in Light Commercial areas. By directing future highway dependent development into the HC, new commercial development along other highway corridors designated LC shall be avoided. The Highway Commercial District would likely cater to highway motorists including accommodations, larger retail, non-pedestrian oriented retail, wholesale, and service and repair activities.

### 6.2.1. **Permitted Uses in the Highway Commercial District (HC)**

- a. Large-scale stores such as retail and wholesale department, variety and specialty merchandise stores, grocery, and specialty foods establishments, restaurants and supper clubs.
- b. Business and professional offices
- c. Personal service establishments (i.e., barbershops, beauty salons, motels etc.).
- d. Convenience stores or service stations
- e. Motor vehicle sales and service, recreation vehicle, small engine, and farm implement sales and service
- f. Greenhouses and nurseries
- g. Recreation facilities
- h. Commercial and private stables
- i. All uses permitted in the LC District are permitted in the HC District
- j. Other similar and compatible uses which are determined by the Plan Commission to be in accord with the purpose of this ordinance.

### 6.2.2. **Conditional Uses in HC District** The following uses shall be conditional uses in the Highway Commercial District.

- a. Licensed junkyards and/or recycling businesses
- b. Circuses, carnivals, musical or theatrical performances or any other similar public functions which customarily are held in temporary structures or in the open air, and for which admission is required or a collection is taken.
- c. Microwave radio relay structures, television transmission towers and cell phone towers
- d. Any Crypto Currency operations
- e. Storage rental units
- f. Wireless Communication Facility

### 6.2.3. Commercial District Standards

|                                      |  |
|--------------------------------------|--|
| a. Maximum building height           | Light Commercial - 35 ft.<br>Highway Commercial - 45 ft.<br>Accessory Building - 25 ft.                            |
| b. Minimum front yard setback        | 30 ft. - adjacent to Town Road, 50 ft. - adjacent to County or State Road, 110' - from centerline of state highway |
| c. Minimum side yard setback         |  |
| Adjacent to street                   | 15 ft.   |
| Adjacent to commercial property      | 15 ft.   |
| Adjacent to Residential District     | 20 ft.   |
| Firewall construction                | 25 ft.   |
| Non-firewall construction            | 45 ft.   |
| Accessory Building                   | 15 ft.   |
| d. Minimum rear yard setback         |  |
| Principal building                   | 25 ft.   |
| Accessory buildings                  | 12 ft.   |
| e. Off-Street parking                |  |
| Principal building                   | See Section 14 - Off-Street Parking  |
| Places of public gathering           | See Section 14 - Off-Street Parking  |
| Truck unloading area                 | See Section 14 - Off-Street Parking  |
| f. Lot frontage                      | 75 ft. minimum   |
| g. Lot Coverage: Accessory Buildings | 40% MAX of the total parcel size   |
| h. Environmental Requirements        | Well tested (every 3 years)<br>Well and septic drain field identified and plotted.                                 |
| i. Other requirements                | See Site Plan Requirements   |

## COMMERCIAL

### LOT STANDARDS

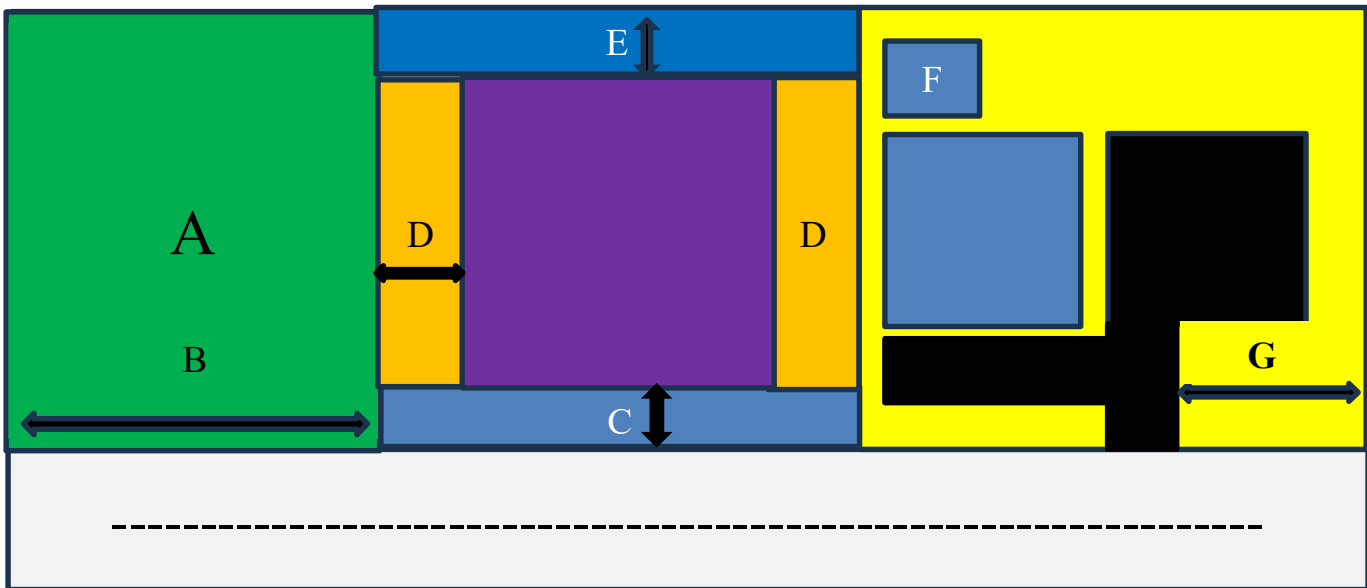
|                       |                                  |    |
|-----------------------|----------------------------------|----|
| Lot Area              | Per Plan                         | A  |
| Street Frontage (min) | 75 feet                          | B  |
| Water Frontage (min)  | As determined by County or State | -- |

### BUILDING SETBACKS

|                  |   |   |
|------------------|---|---|
| Front Yard (min) | 30 feet / 50 feet – State Highways                    | C |
| Side Yard (min)  | 15 feet / 30 feet – town road / 50 feet State Highway | D |
| Rear Yard (min)  | 25 feet / 12 feet – Accessory building                | E |

### BUILDING STANDARDS

|   |   |    |
|---|---|----|
| Maximum Height                              | Principal (LC – 35 feet) / HC – 45 feet | -- |
|   | Accessory Structure / 25 feet           | -- |
| Lot Coverage                                | Accessory Structure – 40% of lot        | F  |
| Distance between Driveway and Property Line | 5 feet                                  | G  |



- |   |                        |                       |
|---|------------------------|-----------------------|
| A – Lot Area                                    | C – Front Yard Setback | E – Rear Yard Setback |
| B – Street Frontage                             | D – Side Yard Setback  | F – Lot Coverage      |
| G – Distance between Driveway and Property Line |                        |                       |

\*For clarification and further requirements see site plan requirements!

## **7. MANUFACTURED HOME / MOBILE HOME DISTRICT (MH):**

**PURPOSE:** The purpose of the MH Manufactured Home / Mobile Home District is to encourage a suitable environment for persons and families that by preference choose to live in a manufactured home rather than a conventional single-family structure. In keeping with the occupancy characteristics of contemporary manufactured homes, this article establishes moderately low-density standards and permitted uses that reflect the needs of residents in the district. Development is limited to manufactured / mobile home Parks designed for that purpose. In addition to applicable regulations set forth in this Zoning Ordinance, all manufactured homes (sometimes referred to as mobile homes) located in the Town of Saratoga are regulated as set forth in the Town of Saratoga, Manufactured Home / Mobile Home Ordinance and all amendments thereto. Mobile Home Districts will be addressed as Planned Unit Developments.

### **7.1. Permitted Uses**

- a. Manufactured Homes
- b. Home occupations with the same limitations as in RS-1 District

### **7.2. Conditional Uses**

- a. Business Use
- b. Wireless Communication Facility

## 8. **GENERAL INDUSTRY DISTRICT (ID)**

**PURPOSE:** The General Industry District was established to provide locations for land uses engaged in the production, processing, assembly, manufacturing, packaging, wholesaling, warehousing, or distribution of goods and materials. Regulations for the General Industry district is established to promote Industrial development an to maintain and improve compatibility with surrounding areas. In addition to industrial uses, limited commercial uses are also encouraged.

### **8.1. Permitted Uses in ID District**

- a. All permitted and conditional uses in the Commercial Districts.
- b. Manufacturing, processing, assembly of component parts
- c. Outdoor storage of industrial products, machinery, equipment or other materials
- d. A dwelling unit provided for a caretaker or superintendent for an industrial use which requires constant supervision.

### **8.2. Conditional Uses in ID District**

- a. Facilities for the production, processing or storage of concrete, blacktop, asphalt or other paving or road surfacing materials
- b. Industrial or commercial activities, which tend to create a nuisance, hazard, or other undesirable conditions such as but not limited to noise, dust, vibrations, excessive traffic, and may require special safeguards to reduce or shield the public from such conditions.
- c. Manufacturing and industrial activities such as those described above, but which require relatively large installations, facilities, or land area.
- d. Wireless Communication Facility
- e. Non-metallic mining operations

|                               |  |
|-------------------------------|--|
| a. Maximum building height    | 45 ft  |
| b. Maximum building area      | None   |
| c. Minimum front yard setback | 50 ft (if parking is permitted in the front the minimum setback is 75 ft)  |
| d. Minimum rear yard setback  | 50 ft  |
| e. Minimum side yard setback  | 20 ft  |
| f. Minimum average lot width  | 100 ft   |
| g. Minimum parking provided   | See Section 14 On-Site Parking   |
| h. Truck unloading area       | Sufficient space without blocking any street or alleys, and with no loading or unloading on county or state highways |



## GENERAL INDUSTRY DISTRICT (ID)

|                            |   |
|----------------------------|---|
| Maximum Building Height    | 45 feet   |
| Maximum Building Area      | -----   |
| Minimum Front Yard Setback | 50 feet (if parking is permitted in front – minimum setback 50feet) |
| Minimum Rear Yard Setback  | 50 feet   |
| Minimum Average Lot Width  | 100 feet  |
| Minimum Parking Provided   | see section 14 – Parking.   |
| Truck Unloading Area       | See section 14  |

### 8.3. Nonmetallic Mining Conditional Use Permit Requirements

**8.3.1. Definitions.** In addition to the definitions in Section 2, which are incorporated by reference, the following definitions apply to this Section.

- a. “Blasting” means any method of loosening, moving or shattering masses of matter by use of an explosive.
- b. Fugitive Dust” or “Dust” means any particles lifted into the ambient air caused by man- made activities such as the movement of soil, vehicles, equipment, or blasting. Fugitive Dust also shall include particles lifted into the ambient air caused by wind over excavated areas that has had its natural vegetative ground cover removed by the nonmetallic mining.
- c. “Heavy Vehicle” means a vehicle over 48,000 pounds.
- d. “Operator” or “Applicant” means any person engaged in, or who has applied for a Conditional Use Permit (CUP) to engage in nonmetallic mining or processing, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.
- e. “Processing facility” or “processing site” means a location off mine site on which any facilities, structures, equipment, private roads, or haulage ways associated with nonmetallic storage facilities, stockpiles, washing, drying, processing, separation, blending or screening operations are conducted.  
NOTE: Such processing facilities and operations conducted on the mining site are considered part of the mine site.
- f. “Retained expert” means professional consultants including but not limited to engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to reviewing, processing, and acting upon applications for a Nonmetallic Mining CUP or Mining Agreement or to issues associated with the inspection, monitoring, and enforcing of approvals arising under this section.

#### 8.3.2. Application Requirements

- a. Preliminary Cost Reimbursement Agreement. At the time a CUP application is filed with the Town, the applicant shall execute, for the benefit of the Town, an agreement agreeing to pay and providing adequate security guaranteeing payment for the cost of the investigation, review and processing of the application, including any Retained Expert and staff administrative costs. The agreement and the security shall be in form and substance acceptable to the Town. The Town shall not begin processing the application until the preliminary cost reimbursement agreement is approved and signed and until the required security is provided to the Town. The Town may accept an initial deposit to begin processing the application and provide the applicant with an estimate of anticipated costs, but it shall not incur processing costs beyond that for which a deposit or other security has been approved.
- b. General Information. In addition to the general information required in the Conditional Use Application, the applicant shall provide the following information:
  - The name, address, phone number(s), and e-mail address of the landowner(s), and operator, if different from the landowner.

- If the operator does not own the proposed mine site or processing facility a copy of a fully executed lease and/or agreement between the landowner and Operator.
- The name, position title, address, and phone number of the individual who is responsible for the daily operation and maintenance of the site, and who will serve as the primary contact person for the Town.
- Proof that all property taxes on the proposed mine site or processing facility are current.

c. Site Information and Maps

- A topographic map and aerial photo of the mine site or processing facility extending one-half ( $\frac{1}{2}$ ) mile beyond the site boundaries at contour intervals no wider than one (1) foot showing the boundaries of the site; total acreage of the site, and the location and name of all roads within one mile of the site.
  - A separate drawing showing proposed locations and use of all buildings and all other structures, erosion control measures, monitoring wells, equipment, tanks, stockpiles, settling ponds, wash areas, identified storage including chemical and fuel storage, and parking areas. If the application is for an existing mine site, show the boundaries of the existing excavation, stockpiles, and wash or settling ponds.
  - Identify by parcel number the locations of offsite residential, agricultural, and municipal wells within one (1) mile of the boundaries of the nonmetallic mining site.
  - The location of existing and proposed wells, on the site including well depth, depth of casing, depth to water, and pumping capacity for each well.
  - 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.
  - The dimensions of the proposed excavation and the elevation(s) of observed or estimated water table(s), as determined by test borings on the site and within one-half ( $\frac{1}{2}$ ) mile of the site. The applicant shall hire the services of a Wisconsin licensed hydrologist or geologist to acquire this information.
  - A letter from the Wisconsin Department of Natural Resources concerning any threatened or endangered species at the mine site.
- d. Operation Plan: An operation plan, which shall include a written description of the proposed nonmetallic mining operation and methods and procedures to be used in mining the site. The operation plan shall also include the following:
- Dates of commencement and cessation of nonmetallic mining.
  - Proposed parking areas, signs, and fencing
  - A description of hours of operation, for the nonmetallic mine site, and processing facility, including all times when vehicles will enter or leave the site or facility.
  - An estimate of the number of truck entering and leaving the site within a 24-hour period and the weight limits of each.
  - A description of the mining methods and, if any, processing methods to be used including a sequence of operations.
  - Estimated total volume of all material to be extracted through the life of the site.
  - Location of road access points and copies of approved access permit(s).

- 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 nonmetallic minerals or products to or from the site.
  - A water budget, including the amount of daily water use, water sources, and methods for disposing of water including methods used for infiltration and control of runoff.
  - Measures to be taken to screen the nonmetallic mining from public view
- f. Compliance with Standards. The Operator shall provide such additional information, as the Town deems necessary, to determine that the proposed nonmetallic mining, processing, or proposed Planned Mining Operation complies with the minimum standards set forth below.

### **8.3.3. Minimum Standards of Operation**

#### **a. General Standards**

- The Operator shall stake or otherwise mark the borders of the entire site and shall secure the site by appropriate measures which may include chain link fencing or other alternative measures consistent with mine safety and security.
- The Operator shall demonstrate that all other applicable Federal, State, County and Town permits and/or approvals for nonmetallic mining have been obtained prior to commencement of the nonmetallic mining.
- The Operator shall provide notice to the Town within 15 days of receiving any notices of violations, citations, or other enforcement actions taken by any governmental body against the operator in relation to nonmetallic mining within the Town.

#### **b. Buffer Areas**

- Except as noted below, the Operator shall provide a buffer area of fifty (50) feet from the nonmetallic mine site or processing facility along bordering property lines and Town roadways.
- If a berm is placed within the buffer area and it lies along a public roadway, the bottom edge of the berm shall be a minimum of ten (10) feet from the edge of any road right-of-way and shall be stabilized to minimize erosion entering the ditch.
- The Operator shall provide a buffer of 1320 feet from any navigable waters and any trout streams.
- The Operator shall screen the mining operations from public view to the maximum extent practicable. Screening may be achieved using berms, additional setbacks or other measures deemed adequate by the Town Board

#### **c. Hours of Operation**

- The Operator shall limit normal hours of operations at the nonmetallic mine site or processing facility to fourteen (14) hours a day Monday through Friday, not earlier than 5:00 a.m. and not later than 11:00 p.m., and on Saturday not earlier than 5:00 a.m. and not later than noon, to avoid substantial or undue impacts on neighboring properties and town residents. Operations on-site shall not occur on Sundays or named holidays.

- Operation of Heavy Vehicles leaving the nonmetallic mine site or processing facility shall be limited to fourteen (14) hours a day Monday through Friday not earlier than 6:00 a.m. and not later than 8:00 p.m. and on Saturday not earlier than 6:00 a.m. and not later than noon. There shall be no operation of Heavy Vehicles leaving the nonmetallic mine site or processing facility on Sunday or named holidays.
- The Operator shall schedule Heavy Vehicles to and from the mining site in a manner to avoid interfering with the safety of children going to or returning from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volume from commuters going to and from work is highest.

d. Control of Light and Noise

- The Operator shall limit night lighting on-site or at a processing facility, to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties.
- The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to neighboring landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 60dB.
- The use and regulation of compression release engine brakes, commonly known as jake-brakes, is prohibited except for emergencies.

e. Control of Air Pollution

- The Operator shall cover all trucks hauling sand with secured tarps, and utilize all relevant dust control measures specified in Wis. Admin. Code § NR 415.075 and any approved Fugitive Dust Control Plan. Additionally, the Operator shall have an established protocol for additional dust control measures when the National Weather Service has issued a high wind warning for the area.
- Air monitors. The Operator shall install air monitors at all nonmetallic mining operations including the mine site and any processing facility in accordance with ambient air monitors required by the DNR.  
In addition to ambient monitoring required by the DNR, the Operator shall be required to monitor the ambient level of Total Suspended Particulates (TSP) as measured by the method described in Appendix B of 40 C.F.R. part 50 (2013) or a method approved in writing by the Town. The Operator may monitor for PM<sub>10</sub> as a surrogate for monitoring for TSP if approved in writing by the Town. If PM<sub>10</sub> is used as a surrogate, it shall be measured by the method described in Appendix L of 40 C.F.R. part 50 (2013).  
The Operator shall completely enclose any dry processing facilities and shall enclose to the extent practicable any loading or unloading facilities.

f. Control of Waste Materials

- The amount of waste material (non-marketable fines) returned to a mine site as part of the reclamation process shall not exceed the site-specific ratio of waste to target material of the extracted raw material as determined prior to the processing of the raw material. A processing facility shall keep records of the tonnage of raw material drawn from each raw material source. The tonnage of waste byproduct that is returned to each mine reclamation site shall not exceed the tonnage of waste contained in the raw material received at the processing facility from that site.

g. Groundwater Standards

- The nonmetallic mine site or processing facility shall have at least one sentinel well at the boundary of the nonmetallic mine site or processing facility that is down gradient of the groundwater flow. The Operator shall take quarterly samples of the sentinel well for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made during the first two (2) years of operation and twice a year in subsequent years.
- The mining company shall sample private wells within one (1) mile of the nonmetallic mine site or processing facility down gradient of the groundwater flow prior to commencement of operation and every two (2) years and private wells on the perimeter of other sides of the mine site every three (3) years. Monitoring shall continue six (6) years after the closure of the mine.
- Mining operations shall not exceed groundwater quality standards in Wis. Admin. Code NR 140.
- Independent laboratories shall analyze all groundwater samples.
- Wash plant settling ponds shall be lined with at least five (5) feet of clay meeting the technical standards contained in Wis. Admin. Code §NR 504.06(2) for clay liners.
  - At least sixty (60) days prior to commencement of nonmetallic mining operations, the Operator shall place sufficient test wells to verify the groundwater elevations on the nonmetallic mine site or processing facility. Test wells located in the down-gradient direction of groundwater flow shall be located so they serve as permanent sentinel monitoring wells during operations.
- Mining operations shall not extract materials at a depth below the point that is five (5) feet above the maximum established groundwater table.
- Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one miles of the nonmetallic mine site or processing facility. A significant reduction includes 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
- Impacts to Surface Water Base Flow: Mining operations shall not cause a lowering of the groundwater that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational or municipal functions such as fire protection within one (1) mile of the nonmetallic mine site or processing facility. Adverse effects include but are not limited to a reduction of water in streams and tributaries below base flows established prior to the beginning of mining operation.
- Impacts to Surface Water Use. The Operator shall undertake all measures necessary for the control of surface water runoff from nonmetallic mining operations 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 Wis. Admin. Code NR 216 and NR 151, as applicable

h. Hazardous Materials

- All hazardous chemicals and their containers, shall be stored, used and disposed of in accordance with applicable state and federal law.
- The Operator shall have a written plan for responding to spills of any hazardous materials on the site or while in transport either to or from the site.
- The Operator shall not dispose of any chemicals or waste materials containing chemicals declared to be hazardous by a government agency, on the site or processing facility.
- The Operator shall not use as landfill material or dispose of onsite, any waste material that contains a toxic amount of a hazardous chemical or a toxic residual.

**8.3.4. Financial Assurance:** Finance Assurance, in a form agreed to by the Town Board, shall be provided to the Town as a condition of 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 nonmetallic mine site or processing facility.
- 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 mine site or such other area impacted by the operations.
- c. Escrow Account: The Town of Saratoga shall establish an escrow account for each nonmetallic mining application. This account shall be used to pay the costs of any expert scientific, accounting legal or other consulting needs by the Town to administer this Section during the duration of any nonmetallic mining, processing and reclamation.

**8.3.5 Reporting Obligations**

- a. On-going Reporting Requirements
  - The operator shall provide notice to the Town of any notices of violations, citations, or other enforcement actions taken by any other governmental authority against the mining operation. The Operator shall provide notice to the town of such actions within 15 days after receiving such notice from the governmental authority.
  - All monitoring data, sampling results, and any other test results required by this section shall be undertaken at the Operator's expense and provided to the Town Clerk. Unless otherwise specified in this section, all monitoring data sampling results and any other test results shall be provided to the Town Clerk within 30 days of receipt of the results by the Operator.
- b. Annual Report
  - No later than August 31 of each calendar year the Operator shall submit an annual report to the Town Board for all active and intermittent mining sites and processing facilities for which the Operator has a permit in the Town of Saratoga. The reporting period shall be from the issue date of the first Operator's permit to August 31, and thereafter from September 1 to August 31.
  - The annual report shall include the following information:
    - I. Identification of the Operator and location of the nonmetallic mine site or processing facility.
    - II. A map or drawing accurately showing the area of an excavation, the unclaimed area and any of the reclaimed area including a calculation of the number of acres for each type.

- III. A description of activities and operations on the nonmetallic mine site or processing facility anticipated for the following calendar year.
- IV. A description of activities and operations on the nonmetallic mine site or processing facility anticipated for the following calendar year.
- V. A written report demonstrating Operator compliance with this section and any permit terms and conditions. The report shall include all groundwater, surface water, and other monitoring results, as well as a copy of all annual reports submitted to other agencies.
- VI. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.

**8.3.5. Inspection Authority.** The Town Board or other authorized Town, may make inspections to determine the condition of a nonmetallic mine site or process representative of the sing facility in the Town of Saratoga in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this section upon showing proper identification, and upon reasonable notice.

**8.3.6. Planned Mining Operation Approval**

- a. Purpose. The purpose of this sub-section is to provide a voluntary procedure for authorizing nonmetallic mining using legislatively developed regulations and standards that are unique to a particular proposed nonmetallic mining or processing operation
- b. Intent: This sub-section provides an alternative to the otherwise applicable regulations set forth in this Section provided that the Town Board determines that the intent of this Section can be achieved Using alternative measures, and that the public health, safety and welfare will not be adversely affected thereby. In exchange for greater flexibility in developing regulations and standards that are unique to a proposed mining operation, a Planned Mining Operation, approval may require additional or different standards, requirements levels of review, monitoring and compliance mechanisms, and measures to mitigate or compensate for impacts, as determined in the sole discretion of the Town Board.
- c. Application for a Planned Mining Operation
  - The application shall include all the information and other materials required for a CUP
  - The application shall describe all ways in which the proposed Planned Mining Operation will deviate from the otherwise applicable regulations in this Section.
  - The application shall provide a written justification for any proposed deviations from the otherwise applicable regulations in this Section which may include provisions to minimize, mitigate or compensate for potential impacts to public health, safety and welfare including impacts to property value.



## **9. RURAL PRESERVATION DISTRICT (RP).**

**PURPOSE:** The Rural Preservation District promotes the health, safety, and welfare of Town residents by protecting the surface and ground water resources, air quality and open space in the town. The intent is also to maintain the existing rural character of the Town while allowing development consistent with the Town of Saratoga Comprehensive Plan. Primarily the Districts consists of MFL properties<sup>5</sup> and large parcels.

### **9.1. Permitted Uses in Rural Preservation District (RP)**

- 9.1.1. Forestry and management of forests; silviculture
- 9.1.2. Harvesting of wild crops
- 9.1.3. Wildlife Preserves
- 9.1.4. Wildlife and Fish management and non-residential buildings used solely in conjunction with such activities.
- 9.1.5. Hunting, fishing, and trapping.
- 9.1.6. public and private recreational areas, picnic areas and similar uses.
- 9.1.7. Preservation of areas of scenic, historic, or scientific value.
- 9.1.8. All uses permitted in Rural Residential District
- 9.1.9. Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.

### **9.2. Conditional Uses in Rural Preservation District (RP)**

- 9.2.1. Dams, flowages, and ponds
- 9.2.2. All activities regulated by the Wood County Shoreland Zoning Ordinance and the Wood County Floodplain Ordinance.
- 9.2.3. Removal of Topsoil or Peat.
- 9.2.4. Cranberry Bogs
- 9.2.5. Campgrounds
- 9.2.6. Conservation Subdivision (See *“overlay Districts: in this Ordinance”*)
- 9.2.7. Kennels as defined in this Ordinance.
- 9.2.8. Commercial Stables
- 9.2.9. Wireless Communication Facility

Note <sup>5</sup> : Currently, per Department of Natural Resources, the maximum to be extracted from an MFL parcel is 5 acres.

## RP Rural Preservation District Standards

|    |  |  |
|----|--|--|
| a. | Maximum building height                              |  |
|    | Principal building                                   | 35 ft.   |
|    | Accessory building                                   | 25 ft  |
| b. | Minimum front yard setback                           |  |
|    | Principal building                                   | 30 ft adjacent to town road  |
|    |  | 50 ft adjacent to county or state highway  |
|    | Accessory building                                   | Same as principal building   |
| c. | Minimum rear yard setback                            |  |
|    | Principal building                                   | 25 ft  |
|    | Accessory building                                   | 25 ft min. or based on height of structure height is min setback for side, whichever is greater. |
| d. | Minimum side yard setback                            |  |
|    | Principal building                                   | 25 ft from adjoining lot or 30 ft from adjacent town road, 50 ft from county or state highway    |
|    | Accessory building                                   | 25 ft. min.  |
| e. | Minimum lot area                                     | 5 acres (130,680 sq. ft)   |
| f. | Lot frontage   | 75 feet minimum on street (Lot width average 300 ft.)  |
| g. | Off Street parking                                   |  |
|    | One- and Two-Family Dwelling                         | See section 14   |
|    | Place of Public gathering                            | See section 14   |
| h. | Maximum Lot Coverage                                 | No more than 30% of the total lot  |
|    | Principal Building                                   | Must Comply with setback standards (b) (c) (d) MAX 20%   |
|    | Accessory Buildings                                  | 10% MAX  |
| i. | Outside Storage                                      | See 2.62 A   |
| j. | Residential Min Floor area                           | 235 Square feet  |
| k. | Minimum Distance between driveway and property lines | 20 feet  |
| l. | Detached Garage/Accessory Buildings                  | No more than 10% of the total lot size   |

## **10. FARMLAND PRESERVATION DISTRICT (FP)**

**PURPOSE:** The Farmland Preservation District was established to preserve and protect soil and water and minimize land use conflicts.

### **10.1. Permitted Uses in Farmland Preservation District (FP)**

10.1.1. The uses permitted in the FP district are those permitted in WIS. Stat.91.44 (2012) and are hereby incorporated by reference.

### **10.2. Conditional Uses in Farmland Preservation District (FP)**

10.2.1. Conditional Uses permitted in the FP district are those permitted in WIS, Stat. 91.46 (2012) and are hereby incorporated by reference.

10.2.2. Wireless Communication Facility

## 11. PLANNED UNIT DEVELOPMENT

**Purpose:** A Planned Unit Development (PUD) is a technique for establishing guidelines for development, typically on large parcels of land, with the intent of permitting development under unified control and is planned and developed as a whole in a single development operation or programmed series of stages. Within a PUD, variations of density, lot size, setbacks, street widths, and other requirements are allowed. The variety of development that is possible using PUDs creates opportunities for creativity and innovation within the development, while incorporating open space within the design.

### 11.1. Permitted Uses in Planned Unit Developments

11.1.1. Based on the underlying Zoning District

### 11.2 Conditional Uses in Planned Unit Developments

11.2.1. Based on the underlying Zoning District

### 11.3. District Boundaries and Standards: ,

A PUD District shall be located in ALL districts but shall have no definite and measurable boundaries until a specific PUD is presented and ultimately approved by the Town Board.

11.3.1. Size of Planned Unit Development. Size of planned unit development. Each separate planned unit development shall consist of an area of **not less than five (5) acres**, and following approval by the Town Board may not be further subdivided.

11.3.2. Parcel density. The density shall not exceed the density of the underlying zoning district. Notwithstanding Wood County Subdivision Ordinance 701, the maximum permitted number of units in a PUD shall be determined by dividing the total area of the development parcel, including the right-of-way, by the minimum lot size specified in the Town of Saratoga Building Ordinance.

11.3.3. Conditional uses shall be based on the underlying Zoning District.

### 11.4. Application Procedures:

11.4.1. Plans for the proposed development shall be submitted to the Plan Commission and shall include the following:

11.4.2. A scaled drawing or a drawing with dimensions showing the property location, adjacent properties, roads, wooded areas, open areas, streams, rivers, ponds, and any public utilities adjacent to or crossing the property.

11.4.3. Location, width and length of all proposed roads and cul-de-sacs.

11.4.4. Location, size, and proposed use of all structures.

11.4.5. Location and size of all common open areas or natural features being preserved.

11.4.6. Location and size of all wells, individual and common.

11.4.7. Location and size of septic fields, individual and common.

11.4.8. Application fee

### **11.5. Plan Review:**

Each planned unit development shall be subject to review and consideration by the Plan Commission regarding its acceptability under this section

The following criteria shall be applied to every proposed planned unit development for determining its consistency with this ordinance:

- 11.5.1. Its compatibility with the site, with particular emphasis on the preservation of natural features and the use of open space.
- 11.5.2. Its overall compatibility with existing land uses in the vicinity and the probable future land uses in the vicinity.
- 11.5.3. The internal compatibility of the various land uses proposed to be included within the development.
- 11.5.4. Its compatibility with existing and probable future transportation facilities in the vicinity, and its tendency to increase the demand upon those facilities
- 11.5.5. The provision of adequate internal circulation facilities including streets, sidewalks, trails, and parking facilities within the development
- 11.5.6. Its compatibility with existing and future provisions of public utility services such as sewer and water facilities and its tendency to increase the demand upon those Facilities.
- 11.5.7. Its compatibility with existing and future public services, such as schools, police protection, fire protection, street maintenance, etc., and its tendency to increase the demand upon those services
- 11.5.8. The provision of adequate open space, the provision of public access to streams and bodies of water, the preservation of environmental and aesthetic values and the provision of adequate and appropriate arrangements for the continuing preservation of the aforesaid features, including legal restrictions and other legal devices and the provision of adequate and appropriate institutional arrangements for continued maintenance.
- 11.5.9. The long-term economic stability of the proposed development and its economic impact on other properties in the vicinity
- 11.5.10. The presentation of an adequate and practical implementation schedule for completion of the development, whether by stages or all in one period, in order to ensure that the adverse results of failure to complete the development may be effectively avoided

## **12. SPECIAL PURPOSE OVERLAY DISTRICTS**

**Purpose:** To achieve certain specific objectives, the Town's zoning ordinance includes overlay zones that apply restrictions to certain areas. These will be identified through amendments to this zoning ordinance and zoning map and will then apply in addition to the restrictions in the underlying base zoning districts.

### **12.1. Conservation Subdivision Overlay District. (CS-O)**

**Purpose.** The purpose of a Conservation Subdivision Overlay District is to permit residential development resulting in environmentally sensitive and cost efficient single-family development. The provisions set forth encourage innovative housing environments within residential districts through both permanent dedication of open space and a planned reduction of individual lot area requirements. The overall density remains the same as the underlying district.

**12.1.1. Objectives.** The following objectives shall be considered as part of the review of an application for a Conservation Subdivision:

- a. To provide a more environmentally sensitive residential environment by preserving the natural character of open fields, stands of trees, ponds, streams, hills and similar natural features
- b. To preserve the rural landscape and protect environmentally sensitive lands from the disruptive effects of traditional subdivision developments.
- c. To provide a more efficient and aesthetic use of open space by allowing developers to reduce lot sizes while maintaining the residential density required in the underlying district.
- d. To allow a more flexible and economical residential layout and street design
- e. To assure the permanent preservation of open space, rural lands and natural Resources.

**12.1.2. District Boundaries.** A Conservation Subdivision shall be located within the RR-1, RS-1 or RP Districts, but shall have no definite and measurable boundaries until a specific conservation subdivision project is presented, recommended by the Plan Commission and approved by the Town Board.

**12.1.3. Permitted Uses.** Same as RS-1 and RR-1 Districts

**12.1.4. Conditional Uses.** Same as RS-1 and RR-1 Districts

**12.1.5. Conditions for Development.** The following conditions for development shall be utilized when evaluating the proposed location of any conservation subdivision:

**12.1.6. Protection of Natural Resources:** The purpose of a conservation subdivision is the protection of the natural and cultural features of the area. All conservation subdivisions shall be designed to protect significant wildlife habitats, sensitive environmental lands and scenic vistas.

**12.1.7. Single Ownership Control:** The proposed development shall be under a single ownership and control, such that one person or entity has proprietary responsibility for the completion of the development. The applicant shall provide documentation of ownership or control in the form of agreements, contracts, covenants and/or deed restrictions which indicate the development will be completed as proposed.

**12.1.8. Open Space.** All open space as shown on the approved plat shall be permanently set aside as common open space as dedicated by any of the following:

- a. A recorded deed restriction
- b. Covenants that run perpetually with the land
- c. A conservation easement

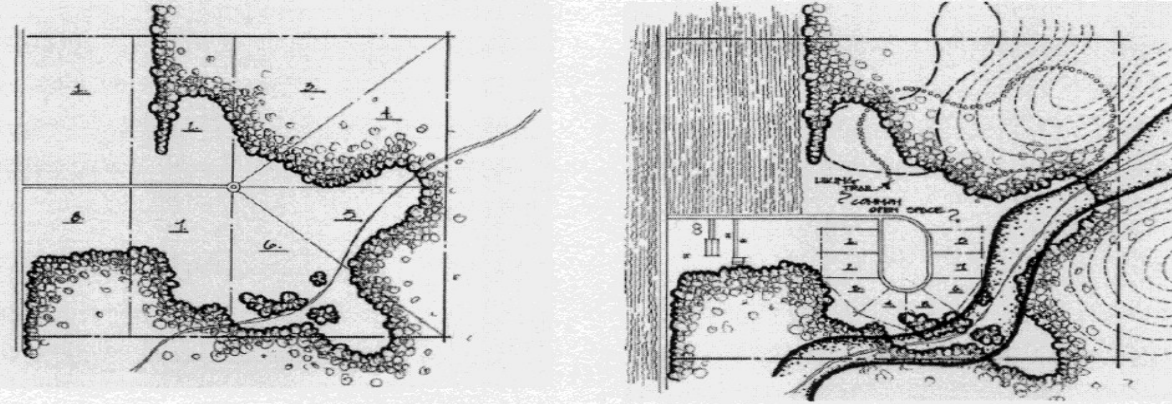
**12.1.9. Buffering**

- a. Buffer zones of no less than 100 feet shall be required between residential and nonresidential areas and shall be planted with native shrubs and trees to create an effective barrier separating residential space from nonresidential areas.
- b. Landscaped or natural vegetation cover shall provide a buffer between developments and neighboring properties.

**Conservation Subdivision Review.** When reviewing a Conservation Subdivision application the Plan Committee shall base their decision on the following:

- a. The application procedures listed in the Planned Unit Development (PUD) section of this ordinance.
- b. The overall design, land use and open space shall be consistent with the objectives stated within for a Conservation Subdivision.
- c. The proposed use of the open space if for other than conservation of the natural resources within the subdivision boundaries.

**FIGURE 1: TRADITIONAL VS. CONSERVATION SUBDIVISION**



Source: A Model Ordinance for a Conservation Subdivision, UW Extension 2000.



## **12.2 Historic District Overlay (H-O)**

**Purpose.** The purpose of the Historic District Overlay is the protection, enhancement, Perpetuation and use of improvements or sites of special character or special architectural, Archaeological or historic interest or value in the Town of Saratoga.

**12.2.1 Permitted Uses.** All uses meeting the requirements of the underlying district and this overlay.

**12.2.2. Conditional Uses.** All uses other than those permitted in the underlying district are conditional.

**12.2.3. District Requirements.**

- a. Development in the Historic District Overlay may follow the alternate standards outlined in the State historic building code in Wisconsin Statutes sec. 101.121.
- b. Notwithstanding Wisconsin Statutes sec. 101.121, all parking lots and restroom facilities shall be ADA compliant / accessible.

## **12.3. Natural Resources Preservation Overlay (NRP-O)**

**12.3.1. Wood County Ordinances Adopted.** The Wood County Floodplain Ordinance 703 and the Wood County Shoreland Zoning Ordinance 704, and all amendments thereto, are adopted and incorporated by reference and shall apply to all dwellings, buildings, structures, development and land use within the scope of this ordinance.

**12.3.2. District Standards.** All the standards regarding density, building size, setback, lot width, maximum lot coverage of the underlying district shall apply unless otherwise regulated prohibited by Wood County Ordinance 703 and/or 704.

## **12.4. Development Constraints Overlay District (DC-O)**

**Purpose.** The purpose of the Development Constraints Overlay is identifying those lands with soils of moderate to severe limitations for residential development. This area is prone to surface water flooding with major flooding and raised ground water elevations approximately every ten years.

**12.4.1. Permitted Uses:** All uses permitted in the underlying districts. All dwellings must comply with UDC Code and local building codes.

**12.4.2. Conditional Uses:** All uses listed as conditional in the underlying districts are conditional uses in this district overlay.

### 13. Site plan review.

**a. Purpose.** This section is intended for the purpose of promoting compatible development and stability of property values, fostering the reactivity and functional utility of the community as a place to live and work, preserving the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character or are of a special historic significance, protecting certain public investments in the area, and raising the level of community expectations for the quality of its environment.

**b. Preliminary consultation.** Prior to the preparation and official submittal of the site plan and supporting data, the applicant shall meet with the Zoning Administrator before submittal to Plan Commission for a preliminary consultation. The purpose of this preliminary consultation is to have an informal discussion of the proposed project, a review of the regulations and policies applicable to the project and a discussion of the land use implications of the project.

**c. Site plan review principles and standards.** To implement the purpose set forth in Subsection A above, the Plan Commission shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading (in the case of commercial and industrial uses), highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. The Plan Commission will approve said site plans only after determining that:

- (1) The proposed use conforms to the uses permitted in that zoning district.
- (2) The dimensional arrangement of buildings and structures conforms to the required area, yard, setback, and height restrictions of this chapter.
- (3) The proposed use conforms to all use and design provisions and requirements, if any, as found in this chapter for the specified uses.
- (4) There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project to assure the safety and convenience of pedestrian and vehicular traffic.
- (5) The proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, noise, outside storage of any incendiary device or smoke-producing appliance or noxious fumes, lighting and parking as specified by this chapter.
- (6) Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project

- and adjoining properties used for dissimilar purposes, or where they assist in preserving the general safety, health, welfare, and appearance of the neighborhood.
- (7) Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing, or landscaping, as provided or required in this chapter.
  - (8) Land, buildings, and structures are readily accessible to emergency vehicles and the handicapped.
  - (9) The site plan is consistent with the intent and purpose of this chapter, which is to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property and to facilitate existing community development plans.
  - (10) The site plan is consistent with the public goals, objectives, principles, standards, policies, and urban design criteria set forth in the Town's adopted Comprehensive Plan and components thereof.

**d. Compliance.**

- (1) No use or structure, except single-family dwellings, shall hereafter be erected, moved, reconstructed, extended, enlarged, altered, or changed until the Plan Commission has reviewed and approved plans for the site or structure. Site plan approval shall also be required prior to condominium plat approval and approval for a mobile home park. All buildings subject to site plan review pursuant to this subsection shall have a minimum of 20% of the finished front wall surface, excluding windows and doors, constructed of brick, stone, stucco, wood or other appropriate accent material as approved by the Plan Commission. The Plan Commission may determine that additional accent material is necessary on other wall surfaces based on the visual exposure of the structure.
- (2) The Plan Commission may modify specific site plan requirements such as accent material, landscaping (including yard sprinklers), water retention, parking, and means of compliance as stipulated elsewhere in this section but cannot reduce any required yard, setback, or green space. This section shall be applicable to all previously approved site plans.

**e. Applications for site plan review.** A copy of all site plan data shall be submitted to the Zoning Administrator at least seven business days prior to the next regularly scheduled Plan Commission meeting. Plans shall be of sufficient quality and content to ensure a thorough review by the Plan Commission. Site plan data to be submitted with all applications shall include the following:

- (1) Site plans drawn to an engineering scale with the name of the project noted, as well as a rendering showing all four (4) elevations.
- (2) Owner's and/or developer's name and address.
- (3) Architect's and/or engineer's name and address noted.
- (4) Date of plan submittal.
- (5) Scale of drawing, North arrow, site size information (area in square feet or acres) and building area and coverage noted on the plan.
- (6) All building and yard setback lines indicated.
- (7) Where applicable, both the one-hundred-year recurrence interval floodplain and the floodway indicated. Where applicable, wetland areas indicated.
- (8) All driveways, both ingress and egress locations indicated. Additional curbing may be required based on the Plan Commission review.
- (9) The proposed location of all signage to be placed on the site (see Saratoga Sign Ordinance #06-18-2014 and amendments).
- (10) The location and type of all outdoor lighting proposed to illuminate the area (see section #13)
- (11) Total number and location of off-street parking spaces noted (see section #14)
- (12) The type, construction materials, and size and location of all structures. All building dimensions must be shown. Location of dumpster and recycling areas and the type of screening proposed must be shown.
- (13) Indicate height of buildings.
- (14) Existing and proposed street names indicated.
- (15) Indicate existing and proposed public street rights-of-way and/or reservations and widths.
- (16) Indicate and locate all easements on the subject property.
- (17) Zoning classification noted.
- (18) Location of existing and general location of proposed utilities should be indicated on the site plan.
- (19) Locate any proposed stormwater management facilities, including detention/retention areas. (Post Construction -SS NR151, Erosion Control and Water Management SS NR

- (20) Locate trees six inches or larger that will be included in the site plan.
- (21) Note location, extent and type of proposed landscaping and landscape plantings as well as any proposed buffer areas for adjoining properties pursuant to Subsection F below.
- (22) A graphic outline of any development staging which is planned.
- (23) If the development abuts an existing or planned arterial highway, all driveway locations of all adjoining property within 200 feet of the subject property shall be indicated on the site plan.
- (24) Specific to Self-Storage Facilities – Unit closest to the road must include 25% of multi-use space.

#### **f. Design Elements**

##### **(25) Roofs**

- (a) Must include minimum 12" overhang.
- (b) Incorporate rain gutter control system.
- (c) Multiple roof slope planes.
- (d) Main entrance roof overhangs protecting public entrance.

##### **(26) Entrances (buildings over 25000 sq -3 required, under 25000 sq – 2 required)**

- Canopies or porticos
- Overhangs
- Recesses/Projections
- Arcades.
- Raised corniced parapets over the door.
- Display windows
- Peaked roof forms
- Arches
- Outdoor patios
- Architectural details, such as tile work and moldings that are integrated into the building.
- Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

Unique ideas that are approved by Plan Commission as complying with this section.

**g. Landscaping.**

- (1) Intent. The purpose of requiring landscaping as an integral element of development is to:
  - (a) Provide vegetation to visually soften paved areas and buildings.
  - (b) Establish positive environmental conditions by providing shade; air purification; oxygen regeneration; ground quality; noise, glare and heat abatement; and protection from the forces of erosion.
  - (c) Buffer uncomplimentary land uses, lessen the impact of high intensity uses and generally enhance the quality and appearance over the entire site of the project.
- (2) General conditions and approvals. All site development plans submitted in accordance with Subsection E above shall include a landscape plan.
- (3) Landscape plan requirements. All landscape plans shall contain the following information:
  - (a) North arrow and scale.
  - (b) Topographic information based upon United States government datum and final grading adequate to identify and properly specify plan ng for areas needing slope protection, such areas having a slope in excess of three feet of length to one foot of rise. (c) The location, size and surface of materials of all structures and parking areas.
  - (d) The location, type, size, quantity, and common name of all proposed landscape materials.
  - (e) The location, size, and common name of all existing plant materials to be retained on the site. Plant materials shall be drawn to a scale to reflect approximate mature sizes.
- (4) District requirements.
  - (a) Residential and PUD and RP Districts.
    - [1] The developer shall include foundation, garage, driveway, parking lot (including landscaped islands) and yard plantings.

[2] All two-family and multifamily residential developments which directly abut single-family residential development shall install a vegetative buffer. Two-family residential developments shall install vegetative buffers 18 inches to 24 inches in height whose potential height is four feet. Multi-family residential development buffer plants shall be a four-foot minimum height at the time of planting.

(b) Commercial or Industrial districts.

[1] The developer shall include foundation and/or yard plantings.

[2] All commercial or Industrial developments which directly abut residential uses shall install a vegetative buffer. Buffer plants shall be a four-foot minimum height at the time of planting and shall be installed along the full length of the property line.

[3] All commercial or Industrial developments shall install landscaping elements within the parking areas associated with the business. The following guidelines shall apply:

[a] Provide a visual relief screen a maximum of three feet high and five feet wide when adjacent to a street in the form of a hedge, fence, planter, berm, dividers, shrubbery and trees or any combination. All landscaping to form such a visual relief shall be a minimum height of 18 inches at time of planting. Bark or other organic mulches or other inorganic material shall be retained within the planting area.

[a] All freestanding signs shall be set in a landscaped base of appropriate size to provide shrubs and base plantings that will enhance and complement the sign.

(c) Mobile home parks. (See: Mobile / Manufactured Home Park)

(6) Landscape species.

(a) Acceptable species. The publication titled "A Guide to Selecting Landscape Plants for Wisconsin" by E.R. Hasselkus, UW Extension Publication A2865, shall be used to determine the type of material acceptable for all landscape treatments.

(b) Unsuitable species.

[1] Honeysuckle.

[a] *Lonicera x-bella*.

[b] *Lonicera marrowli*.

[c] *Lonicera tartarica*.

[2] Buckthorn.

[a] Rhamnus cathartica.

[b] Rhamnus grangula (tall hedge).

[3] Any trees considered part of the elm species unless disease resistant.

**h. Review procedures.** Upon receipt of the site plan, the Plan Commission shall review it to determine whether it is in proper form, contains all the required information, shows compliance with this chapter and other ordinances, and plans for the Town, and demonstrates the adequacy of utility services. Upon demand by the applicant of the site plan, the Plan Commission shall, within 30 days of its initial submittal, forward to the Town Board with a recommendation for denial or approval with a document stating the reasons.

**i. Plan changes.** Any substantial change to the plan may be cause for review by the Commission and an additional fee (see fee schedule).

**j. Fees.** Prior to site plan approval, the applicant for a site plan shall pay a fee as stated in the current Fee Schedule for the Town of Saratoga.

**k. Lapse of site plan approval.** If the project for which the site plan approval was granted is not completed within one year of such approval, the site plan approval shall lapse and there shall be no further development or construction. Upon application, the Plan Commission may renew the site plan as originally granted or require changes as deemed appropriate.



#### **14. Wireless Communication Facilities.**

**a. Authority.** The provisions of this section are authorized and designed to be consistent with the regulations of Wis. Stat. 66.0404

**b. Purpose.** This section is intended for the purpose of establishing regulations for wireless communication facilities that minimize adverse impacts to the community as follows:

- (1) Encourage the location of mobile services support structures in nonresidential zoning districts.
- (2) Minimize the total number of mobile services support structures within the community.
- (3) Encourage co-location onto existing structures.
- (4) Identify appropriate locations for new wireless telecommunication facilities.
- (5) Ensure that antennas and mobile services support structures are configured in a way that minimizes adverse visual impacts by careful design, appropriate siting, landscape screening and innovative camouflaging techniques.
- (6) Avoid damage to adjacent properties from mobile services support structure failure through careful engineering and locating of such structures.
- (7) Facilitate the provision of wireless telecommunication facilities.
- (8) Enhance the ability to provide wireless telecommunication facilities to the community quickly, effectively and efficiently.

**c. Definitions.** As used in this section, the following terms and phrases shall have the below meanings: "ANTENNA" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

"APPLICATION" means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.

"BUILDING PERMIT" means a permit issued by a Building Inspector that authorizes an applicant to conduct construction activity that is consistent with the Towns' Ordinances

"CLASS 1 COLLOCATION" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does need to engage in substantial modification.

"CLASS 2 COLLOCATION" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility or engage in substantial modification.

“COLLOCATION” or “CO-LOCATION” means class 1 or class 2 collocation or both.

“DEPARTMENT” means the Zoning Administrator / Plan Commission

“DISTRIBUTED ANTENNA SYSTEM” means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

“EQUIPMENT COMPOUND” means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

“EXISTING STRUCTURE” means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

“FALL ZONE” means the area over which a mobile support structure is designed to collapse.

“MOBILE SERVICE” has the meaning given in 47 USC 153 (33).

“MOBILE SERVICE FACILITY” means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

“MOBILE SERVICE PROVIDER” means a person who provides mobile service.

“MOBILE SERVICE SUPPORT STRUCTURE” means a freestanding structure that is designed to support a mobile service facility.

“PERMIT” means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

- (1) Class 1 collocation.
- (2) A class 2 collocation.
- (3) The construction of a mobile service support structure.

“PUBLIC UTILITY” has the meaning given in s. 196.01 (5).

“SEARCH RING” means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, considering other factors including topography and the demographics of the service area.

“SUBSTANTIAL MODIFICATION” means the modification of a mobile service support structure, including the mounting of an antenna on the structure, that does any of the following:

- (1) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- (2) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
- (3) Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
- (4) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

“SUPPORT STRUCTURE” means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

“UTILITY POLE” means a structure owned or operated by an alternative telecommunications utility, that is designed specifically for and used to carry lines, cables, or wires for telecommunications service.

**d. Exceptions.** The provisions of this sec on do not apply to radio or television reception antennas or satellite or microwave parabolic antennas not used by wireless communications service providers, receive-only antennas, antennas less than 70 feet in height and owned and operated by a federally licensed amateur radio station operator, towers or antennas lawfully in existence in the Town on the date this sec on became effective, facilities of any cable television company holding a valid and current franchise or commercial radio and/or television broadcasting facilities.

**e. Building Code.** The construction and installation of antenna support structures, antennas, and antenna arrays, the installation or placement of antenna arrays on buildings and the placement of antennas on alternative support structures shall be subject to requirements of the Building Code,<sup>20</sup> requirements of the Electronics Industries Association/Telecommunications Industries Association and any additional standards applicable thereto published by the Electronics Industries Association.

**f. Mobile Tower Siting:**

**1. New tower - application and process**

- a. A building permit is required for the siting and construction of any new mobile service support structure and facilities within the Town of Saratoga.
- b. An application for siting and the construction of any new mobile tower shall be submitted to the Zoning Administrator and shall contain the following information:

- c. The name and business address of, and the contact individual for, the applicant.
- d. The location of the proposed or affected support structure.
- e. The location of the proposed mobile service facility.
- f. Proof a site address has been issued for the tower.
- g. Copy of the easement or agreement with the landowner if the land is not owned by the company/applicant.
- h. A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base station, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- i. An explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a notarized sworn statement from an individual who has responsibility over the placement of the mobile service support structure asserting that colocation within a two-mile radius would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

2. If an applicant submits an application for a permit to engage in an activity described in this ordinance to the Town, which contains all of the information required under this ordinance, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 calendar days of receiving the application, informing the applicant that the application is not complete. The written notification shall specify in detail the required information that was not submitted which has rendered the application incomplete. An applicant may resubmit an application as often as necessary until it is deemed complete.

3. Within 90 calendar days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90-calendar day period:

- a. Review the application to determine whether it complies with all applicable aspects of the Village's building code, subject to the limitations in this section and zoning ordinance.

- b. Make a final decision whether to approve or disapprove the application.
  - c. Notify the applicant, in writing, of its final decision.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
4. The town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Sec on (E)(1)(b)(7).
5. A party who is aggrieved by the final decision of a political subdivision under Sec on (E)(1)(d) may bring an ac on in the circuit court of the county in which the proposed activity (which is the subject of the application) is to be located.
6. If an applicant provides a political subdivision with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.

**g. Class 1 Co-Location**

- 1. To be considered for approval for a Class 1 co-location, a written and signed affidavit from an engineer shall be submitted to the department stating the following:
  - a. The number of antennas to be added and the total number of antennas on the tower.
  - b. That the structure can support the amount/number of antennas and equipment being added.
  - c. That the frequencies will not interfere with existing antennas on the tower.
- 2. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications shall be submitted to the department.

**h. Class 2 Co-Location**

- 1. To be considered for approval for a Class 2 co-location, a written and signed affidavit from an engineer shall be submitted to the department stating the following:
  - a. The number of antennas to be added and the total number of antennas on the tower.

- b. That the structure can support the amount/number of antennas and equipment being added.
  - c. That the frequencies will not interfere with existing antennas on the tower.
- 2. If an applicant submits an application for a permit to engage in a class 2 collocation to the Town, the application shall contain all of the information required under Sec on (E)(3)(a) in which case the Town shall consider the application complete. If any of the required information is not in the application, the political subdivision shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary un l it is complete.
- 3. Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the 45-day period:
  - a. Make a final decision whether to approve or disapprove the application.
  - b. Notify the applicant, in writing, of its final decision.
  - c. If the application is approved, issue the applicant the relevant permit.
  - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- 4. A party who is aggrieved by the final decision of a political subdivision under Sec(E)(3)(c) may bring an action in the circuit court of the county in which the proposed activity (which is the subject of the application) is to be located.

**i. Height, setbacks, and other requirements**

- 1. When applicable, new mobile towers, Class 1, and Class 2 co-locations shall be subject to all Federal Communications Commission (FCC) and Federal Avia on Administration (FAA) approvals and regulations.
- 2. New mobile towers and Class 1 co-locations are subject to a minimum side and rear yard setback of 30 feet unless documentation consistent with Sec on (E)(1)(g) is submitted with the application to the Town.
  - a. The setback requirement under par (4)b for a mobile service support structure shall be measured from the lot lines of other adjacent and nonadjacent parcels for which single-family residential use is a permitted use under a zoning ordinance to the nearest support structure component (ex/ buildings, guidewires, towers, etc.)

**j. Permitting requirements:**

1. All Zoning districts Class 1 Co-location and Class 2 Co-location is a permitted use a New Mobile Tower is a CUP in all Zoning Districts.

**k. Site plan review by Plan Commission.** All antenna support structures, antennas, antenna arrays and wireless communication facilities shall be subject to site plan review. The following requirements are in addition to the requirements in the site plan review portion of this chapter:

1. Lighting. No antenna support structure shall be artificially lighted except as required by the Federal Aviation Administration or other governmental agency.
2. Signage. There shall be no signs, symbols, flags, banners, devices or effects attached to or painted thereon or inscribed upon any antenna support structures or antennas.
3. Support facility requirements.
  - a. All support facilities, including buildings used for switching and other support functions, shall be placed near the support structure on which the antennas are proposed.
  - b. Support facilities, including all equipment enclosures, shelters, cabinets, boxes or vaults designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communication signals and data, and provisions for air conditioning, ventilation or auxiliary electrical generators shall be completely screened with trees, shrubs, fences or other decorative materials planted to a minimum width of five feet so as to be obscured from view from adjacent properties and from the street. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
  - c. Support facilities shall be kept locked at all times and shall be clearly labeled as to the owner, operator or person to be contacted in the event of an emergency.

**1. Removal of abandoned antenna support structures.**

**1.** Any antenna support structure that has had no antenna mounted upon it for a period of 180 successive days, or if the antenna(s) mounted thereon is not operated for a period of 180 successive days, shall be considered abandoned. The owner thereof shall remove such structure and any accompanying equipment enclosure within 90 days after the receipt of notice from the Town to do so. During the 90 days the owner may apply and, for good reason, be granted an extension of time on such terms as determined by the Plan Commission. If such structure and equipment enclosure are not removed within the permitted 90 days, the Village may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which such structures are situated in an amount equal to the cost of removal. Any notice given under this section is subject to appeal to the Board of Zoning Appeals.

**2.** If more than one wireless communication service provider is using the support structure, this provision shall not become effective until all users cease use of such structure.



## 15. ADMINISTRATION OF ZONING

**Town Zoning Official:** A Town Zoning Official shall assist with administration of this ordinance. The Town Zoning Official shall have the authority to issue zoning Commission for further review pursuant to Section 11.2. The Town Zoning Official shall also investigate all complaints, give notice of violations, enforce the provisions of this ordinance and take such other actions to implement this ordinance as may be determined from time to time by the Town Board or Plan Commission. The Town Zoning Official, or his or her duly authorized deputy or assistant, shall have the right to enter premises affected by this ordinance at reasonable hours for the purpose of inspection. The Town Chairperson shall designate the Town Zoning Official, subject to approval of the terms of appointment by the Town Board, and may designate an authorized deputy or assistant where prudent or necessary.

**Plan Commission.** The Plan Commission is an appointed body with the primary duty of developing a land use plan and implementation measures for the Town. The Plan Commission makes recommendations to the Town Board, and the Town Board retains approval authority with respect to the Plan Commission's recommendations.

**Authority.** The Plan Commission is created by ordinance adopted by the Town Board, pursuant to the authority in Wisconsin Statutes sections 60.62(4) and 62.23(1). The Plan Commission shall have such authority, duties and powers as provided by the Wisconsin Statutes, as set forth in this ordinance, and as directed from time to time by the Town Board.

**Members and Alternate.** The Plan Commission shall consist of seven voting members plus one alternate member. All members (including the alternate) shall be town residents. The alternate shall attend meetings, and shall have the right to vote but only when one of the seven voting members is absent.

**Appointments and Removal.** Members shall be appointed for three-year terms. Appointments shall be made by the Town Chairperson, subject to confirmation by the Town Board. The Town Chairperson may appoint town board members to the Commission and may appoint other town elected or appointed officials to the Commission, except that the Commission shall always have at least one citizen member who is not a town official. The terms of the members and alternate expire on April 30 of the designated year, and new appointments begin on May 1. Members of the Plan Commission who fail to attend three or more meetings may be removed from the Plan Commission by the Chairperson.

**Vacancies.** Vacancies during a term shall be filled promptly by the Town Chairperson, subject to confirmation by the Town Board. Such appointments shall be for the remainder of the term.

**Per Diems.** Per diems shall be paid to the seven members as determined by resolution of the Town Board. The alternate, when attending shall be paid the same compensation

**Commission Presiding Officer.** The Town Board Chairperson shall select the presiding officer for the Plan Commission. The Presiding Officer shall be the Chairperson of the Plan Commission. The Plan Commission may elect a Vice Chairperson, who shall serve as the presiding officer in the Chairperson's absence.

**Commission Secretary.** The Plan Commission shall appoint a commission secretary to serve as a permanent or temporary secretary. The secretary, following consultation with the Plan Commission Chairperson, shall: prepare, post and distribute agendas; record meeting minutes, which shall show the vote of each member on each question presented for vote; and, perform such other duties as set forth in this ordinance and as directed from time to time by the Plan Commission. Records of the Plan Commission shall be maintained in the Town Office.

**Public Hearings.** The Plan Commission shall conduct the public hearings required by this ordinance and Wisconsin Statutes.

**Meetings.** All meetings of the Plan Commission are subject to Wisconsin's Open Meetings Law. The Plan Commission may adopt such rules and procedures, as it deems necessary for the effective conduct of its business. The Plan Commission Chairperson shall call meetings at such time as he or she deems appropriate, provided that all meetings shall be held in compliance with Wisconsin's Open Meetings Law. Plan Commission meetings may also be called by written notice of a majority of the voting members of the Plan Commission or the Town Board. The Plan Commission shall keep minutes of its proceedings, and the commission secretary shall forward same to the Town Clerk in a timely manner. The Town Clerk, Plan Commission Chairperson or the Town Supervisor who serves on the Plan Commission shall report the minutes and recommendations of the Plan Commission to the Town Board promptly and in a manner that allows the Town Board to remain informed and take appropriate action on the recommendations.

**Further Review.** If, in the best professional judgment of the Town Zoning Official, a zoning permit or other request made of the Town Zoning Official requires additional review due to the complexity of the proposal, impact to surrounding properties or existing land uses in the Town, or other factors warranting review by the Plan Commission, the Town Zoning Official shall refer the zoning permit to the Plan Commission for review and final decision on issuance or denial of the zoning permit.

**16. Zoning Board of Adjustment:** The primary role of the Zoning Board of Adjustment (“Zoning Board”) is to hear and decide cases where there is an alleged error in the zoning decision or where a relaxation of the zoning ordinance is sought.

**Authority.** As required by Wisconsin Statutes section 60.65, the Town Board hereby provides for the creation of a Zoning Board. The Zoning Board may, in appropriate cases and subject to appropriate conditions and safeguards, provide for variances<sup>6</sup> to the terms of the zoning ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this section of the ordinance entitled “Zoning Board of Adjustment” shall preclude the granting of variances by the Plan Commission or Town Board in accordance with this zoning ordinance

**Jurisdiction.** The Zoning Board is authorized to serve as an administrative appeal body and, in appropriate cases and subject to appropriate conditions and safeguards, may grant variances to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules herein contained. The Zoning Board conducts an administrative appeal when an appropriate party legally contests an order or decision of the Town Zoning Official. The Zoning Board decides to grant or deny a variance when a landowner requests a relaxation of a dimensional or use standard specified in the zoning ordinance.

**Subject Matter Jurisdiction.** As specified in Wisconsin Statutes, the subject matter jurisdiction of the Zoning Board includes general zoning, construction site erosion control at sites where the construction activities do not include the construction of a building (such that other regulatory provisions take precedence), storm water management zoning, and public utility permits. The Zoning Board shall also hear appeals of decisions regarding the interpretation and application of the Town Building Code, as permitted by law, and in accordance with the procedures set forth herein, as modified for review of the Town Building Code.

<sup>6</sup>The phrase “make special exceptions,” as used in the Wisconsin Statutes in this context, refers to what is defined as “variances” in this ordinance.

**Members; Appointments and Removal.** The Zoning Board shall consist of 3 members appointed by the Town Chairperson, subject to confirmation of the Town Board. Not more than one town board supervisor may be a member of the Zoning Board. Plan Commission members shall not be a member of the Zoning Board. The initial terms of the members of the Zoning Board are one, 2 and 3 years, respectively, starting from the first day of the month next following the appointment. Successors shall be appointed at the expiration of each term and their term of office shall be 3 years and until their successors are appointed. Members of the Zoning Board shall reside within the Town. The Zoning Board shall elect a chairperson to preside over meetings. Members of the Zoning Board shall be removable by the Town Chairperson for cause upon written charges and after public hearing.

**Per Diems.** Per diems shall be paid to the members as determined by resolution of the Town Board. An alternate, when attending shall be paid the same compensation as is provided to other members.

**Zoning Board Secretary.** The Zoning Board may employ a secretary and other employees, in accordance with a budget set by the Town Board.

**Vacancies.** Vacancies shall be promptly filled by the Town Board in the same manner as initial appointments, except that the term of appointment shall be for the unexpired terms of members whose terms become vacant.

**Alternates.** The Town Chairperson shall appoint, for staggered terms of 3 years, 2 alternate members of the Zoning Board, in addition to the 3 members above provided for. Appointments shall be subject to confirmation by the Town Board. Annually, the Town Chairperson shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so, act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

**Rules of Procedure.** The Zoning Board shall adopt rules in accordance with the provisions of this zoning ordinance. Meetings of the Zoning Board shall be held at the call of the Zoning Board Chairperson and at such other times as the Zoning Board may determine. The Zoning Board Chairperson, or in the Zoning Board Chairperson's absence, the acting Zoning Board Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board shall be open to the public. The Zoning Board 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 Town Office and shall be a public record.

**Quorum.** If a quorum is present, the Zoning Board may take action under this suspension by a majority vote of the members present.

**Appeal to Zoning Board.** Appeals to the Zoning Board may be taken by any person aggrieved or by any officer, department, board, or department of the Town affected by any decision of the Town Zoning Official. Such an appeal shall be taken within (30) days of the action giving rise to the appeal, or the right to appeal the action shall be deemed waived and the action shall stand.

a. **Powers of the Zoning Board.** The Zoning Board shall have the following powers: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done. In exercising the above-mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issue of a permit.

b. **Initiation of Appeal.** The appeal shall be commenced as described in the Rules and Procedures of the Zoning Board, if any, or by filing with the Town Clerk and the Zoning Board a notice of appeal specifying the grounds thereof. The person receiving the notice shall forthwith transmit to the Zoning Board all the papers constituting the record upon which the action appealed from was taken.

c. **Stay During Appeal to Zoning Board.** 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 Zoning Board after the notice of appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

d. **Hearing Process for Zoning Board.** The Zoning Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. Notice of the decision shall be provided by U.S. mail to the parties who appear at the hearing, using the address provided to the Zoning Board at the hearing.

e. **Certiorari Review by Court.** Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board, or any taxpayer, or any officer, department, board, or subunit of the Town, may, within 30 days after the filing of the decision by the Zoning Board, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the Zoning Board and on due cause shown, grant a restraining order. The Zoning Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review. Costs shall not be allowed against the Zoning Board unless it shall appear to the court that the Board acted with gross negligence or in bad faith, or malice, in making the decision appealed from.

## 17. PERMITS, INSPECTIONS, AND VARIANCES

**Types of Permits:** There are many types of permits related to and required for land use and structures. These include, but are not limited to, building permits<sup>7</sup>, County permits<sup>8</sup>, State permits<sup>9</sup>, zoning permits, and conditional use permits. Nothing in this zoning ordinance precludes the need for a person to obtain other necessary federal, state, or local permits. The types of permits authorized by this ordinance are zoning permits, certificates of zoning compliance and conditional use permits.

**Permits Required.** No changes in the use of land, other than those stated for that zone and in compliance with the regulations of that zone, shall hereafter be permitted until a zoning permit, conditional use permit and/or certificate of zoning compliance has been issued in accordance with this ordinance, unless otherwise required by law.

<sup>7</sup> Building permits are regulated under the Town's Building Code Ordinance, not under this Zoning Ordinance.

<sup>8</sup> For example, septic systems require sanitation permits issued by Wood County.

<sup>9</sup> For example, certain commercial buildings require State site plan review and permits from the Wisconsin Department of Safety and Professional Services (DSPS).

**Zoning Permits and Certificates of Compliance.** The primary purpose of zoning permits is to ensure that land use in the Town is in compliance with provisions of this ordinance and the Comprehensive Plan. A zoning certificate of compliance is issued to provide confirmation of compliance for the owner, as of the date of issuance.

**Zoning Permits Required.** A zoning permit shall be required when a new building is erected or an existing building is added to, structurally altered, moved or changed in use. No new building shall hereafter be erected, and no existing building shall be added to, structurally altered, moved, or changed in use, nor shall any nonconforming building be repaired or restored, in any district, until a zoning permit has been issued in accordance with this ordinance, unless otherwise required by law.

**Zoning Permit Application.**<sup>10</sup> To obtain a zoning permit, the applicant shall file an application and a development plan with the Town Clerk, who will then forward the application to the Town Zoning Official. The zoning permit application shall contain the following information: name and address of the owner of the property; legal description; size and location of the building to be erected or moved on or onto the property; proposed use of the building or premises; type of construction; estimated cost and such other information that the Town Zoning Official may reasonably require. The application shall be signed by the owner or his or her duly authorized representative or agent; provided, however, that, if a prospective owner desires a prior ruling on a proposed construction or use before consummation of purchase, he or she may apply for a permit as a prospective owner, and, if a permit be denied, he or she may appeal the denial as set forth in this ordinance. If the Town Zoning Official cannot determine compliance with the provisions of this ordinance from the application and development plan submitted by the applicant and/or other information reasonably known by the Town Zoning Official or designee, the Town Zoning Official may require additional information. The application shall not be considered complete, and no action shall be taken thereon, until such additional information has been received.

**Issuance of Zoning Permit.**<sup>11</sup> It is within the Town Zoning Official's discretion to refer complete applications to the Plan Commission for input, recommendations and/or a determination prior to issuance or denial of a zoning permit. A zoning permit shall be issued if and only if it has been satisfactorily determined by the Town Zoning Official, and Plan Commission where applicable, that the use of land and buildings set forth in the zoning permit application is consistent and in compliance with this ordinance.

<sup>10</sup> A zoning permit application is often very similar to a building permit application, and it is within the Town Zoning Official's discretion to review the building permit application and then determine what, if any, additional information will be required for the applicant to complete the zoning permit application. Similarly, it is within the Town Zoning Official's discretion to request that the zoning permit application be completed and reviewed first and the building permit application second.

<sup>11</sup> The Town Zoning Official may elect to place a check-off for a zoning permit on the building permit form currently used by the Town, or develop and use such other form as the Town Zoning Official deems appropriate.

**Display Card Required.** Coincident with issuance of a zoning permit, the Town Zoning Official shall prepare a card certifying that a zoning permit has been issued. This card shall bear the same number as the zoning permit and identify the construction and premises covered by the zoning permit. This card shall be posted in a conspicuous place on the premises during the construction, and no construction shall begin until this card has been posted. The property owner(s) and contractor(s) are responsible for determining location compliance prior to commencing construction. For purposes of this ordinance, start of construction shall be when any earth disturbing activity takes place that will lead to the installation of footings, posts, pilings, or foundations. Earth disturbing activity for the purpose of soil evaluation or testing shall not be considered the start of construction.

**Void by Misrepresentation.** Any permit obtained through material misrepresentation shall be null and void.

**Expiration.** A zoning permit issued pursuant to this ordinance shall expire one year from the date of issuance if construction is not started within that time and, furthermore, shall expire if construction once started does not diligently proceed to completion within two years from the date of issuance.

**Stop Work Order.** Whenever the Town Zoning Official finds that any construction does not comply with the provisions of this ordinance, the Town Zoning Official shall post, in a conspicuous place on the premises, a stop work order. In addition to imposing fines for violations of stop work orders, the Town may seek injunctive relief as it deems appropriate for enforcing the provisions of this ordinance.

**Zoning Certificate of Compliance.** Upon completion of a project for which a zoning permit is required, the owner shall notify the Town Zoning Official and request an inspection to determine compliance. This inspection must be made before a zoning certificate of compliance may be issued.

- a. If location compliance is necessary, the owner shall stake and/or survey the property in a manner that allows the Town Zoning Official to verify location compliance. For construction which is located 10' or more from the required setback lines, a location survey is not required. If the Town Zoning Official is unable to accurately verify the location of a building on its lot, no zoning certificate of compliance shall issue.



b. A zoning certificate of compliance may also be requested following a change in use of land or a building where the change does not require a conditional use permit, a zoning amendment or a variance. Applications for a zoning certificate of compliance following a change in use shall be completed in the same manner as an application for a zoning permit. Every certificate of compliance shall state the use and occupancy and the location of the building or buildings and indicate that the use of land complies with all of the provisions of this ordinance. The Town Zoning Official shall not issue a certificate of compliance until any related construction or work is substantially complete.

## **Rezoning**

**Authority:** Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Town Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

**Initiation:** A change or amendment may be initiated by the Town Board, the Plan Commission or by a petition of one or more owners or lessees of property within the area proposed to be changed.

**Petition:** Petitions for any change to the district boundaries or amendments to or variances from the regulations, together with the appropriate fee, shall be filed with the Town Zoning Official, shall describe the premises to be rezoned or the regulations to be amended, shall list the reasons justifying the petition, shall specify the proposed use and shall have attached the following:

**Plat plan:** A plat plan drawn to scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

**Owners:** The owners' names and addresses of all property lying within 300 feet of the area proposed to be rezoned.

**Additional information:** Additional information as required by the Plan Commission or the Town Board.

**Recommendations:** The Plan Commission shall, within 30 days, hold a public hearing and review all proposed changes and amendments and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made to the Town Board at a meeting after the public hearing.

**Hearings:** The Plan Commission shall hold a public hearing after publishing a Class 2 notice, as specified in Ch. 985, Wis. Stats.

**Town Board action:** Following such a hearing and after careful consideration of the Plan Commission's recommendations, the Town Board shall vote on the passage of the proposed change or amendment. The acceptance or rejection of the Plan Commission's recommendation shall be by a majority vote of the Town Board.

**Protest:** In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed change, or by owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the members of the Town Board voting on the proposed change.

**Conditional Use Permit (CUP):** When the intended or actual use of land or buildings is listed in this ordinance as a conditional use, a conditional use permit shall be required prior to engaging in conditional use. Prior to issuance, but after receipt of a complete application,<sup>12</sup> the Plan Commission shall conduct a public hearing. Notice of the public hearing shall be published as a Class 1 notice and mailed by U.S. mail<sup>13</sup> to all adjacent landowners.<sup>14</sup> Following consideration of the complete application and the presentation and comments made at the public hearing, the Plan Commission may recommend approval, approval with conditions or denial of the application. The Plan Commission's recommendation shall be conveyed to the Town Board. The Town Board shall thereafter review the complete application and the recommendation from the Plan Commission, and determine whether to approve, approve with conditions or deny the application for a conditional use permit. Additional requirements for the application process and issuance of conditional use permits are set forth in this ordinance.

**Conditional Use Permit Application Procedure:** The purpose of these procedures are to give the Town Board, Plan Commission, and adjacent property owners' sufficient information to make an informed decision that is in the interest of public health, safety and welfare. Applications for conditional use permits shall be submitted to the Town Zoning Official and shall be accompanied by scale maps or drawings with dimensions prepared to the best of the applicant's ability, showing legibly and accurately the location, size and shape of the lot(s) involved, of any proposed structures, including the relation of abutting streets and any abutting lakes or streams, and the existing and proposed use of each structure and lot. If relevant, the application shall describe the number of families to be accommodated, or the number of persons that would normally occupy the building or structure. The application shall contain such other information as deemed prudent and necessary, as determined by the Town Zoning Official and/or the Plan Commission and/or Town Board.

<sup>12</sup> The Town Zoning Official shall make this initial determination as to the completeness of the application. The Plan Commission may require additional information from the applicant prior to issuance of the conditional use permit.

<sup>13</sup> The mailing shall be sufficient if addressed to the owner specified in the tax roll and deposited in the U.S. mail postage paid at least ten (10) days prior to the public hearing.

<sup>14</sup> A landowner is considered "adjacent" if the landowner shares a boundary line with the applicant property. The Town may, but is not required to, mail notice to additional people

**Expiration for Failure to Commence Work:** If the applicant has not substantially commenced work within one (1) year of the date of issuance of the conditional use permit, the conditional use permit shall expire. Upon the applicant's request, and provided that good cause is shown, the Town Board grant an extension of the permit for an additional six (6) month period. substantially completed work within two (2) years of the date of issuance of the conditional use permit, the conditional use permit shall expire and the applicant shall restore the premises as appropriate and only engage in permitted uses. Upon the applicant's request, and provided that good cause is shown, the Town Board may grant an extension of the permit for an additional six (6) month period.

**Expiration for Failure to Engage in Conditional Use:** If the applicant finishes the work and uses the property as allowed by the CUP, but later discontinues the allowed use for a period of two (2) or more years, then the CUP shall expire and be of no further force or effect. If the same or another person wishes to engage in the conditional use, a new application for a conditional use permit must be filed.

**Stop Work Order.** Whenever the Town Zoning Official finds that any construction does not comply with the provisions of this ordinance, the Town Zoning Official shall post, in a conspicuous place on the premises, a stop work order. In addition to imposing fines for violations of stop work orders, the Town may seek injunctive relief as it deems appropriate for enforcement for the provisions of this ordinance.

**Permit Issued to Person(s) and/or Runs with the Land; Conditions to be Specified.** The conditional use permit issued shall specify the terms of approval in writing including requirements and restrictions imposed (such as but not limited to, hours of operation, parking, signage, noise, fencing), review requirements (such as but not limited to, annual review to assure compliance), and whether the CUP is personal to the applicant or runs with the land. For example, a CUP for a home occupation will generally be personal to the applicant, but a CUP for a parcel on which a tavern is to be constructed will generally, run with the land.<sup>15</sup> A CUP that runs with the land remains subject to regular inspection/review or inspection/review generated by complaints, and may thereafter be subject to the imposition of additional requirements by the Town Zoning Official, Plan Commission and/or Town Board.

**Denial.** The basis for denial of a CUP shall be specified in writing.

**Reapplication for CUP following Denial.** For a period of one (1) year after denial of same, the Town shall not consider a new application for the same or substantially similar conditional use permit.

<sup>15</sup> Note that obtaining a zoning permit does not alter the applicant's need to meet other requirements. For example, a tavern owner would still need to obtain the appropriate liquor license and, even if the CUP ran with the land, the liquor license would not.

*See Wisconsin Statutes Ch. 125 and local ordinances for liquor license requirements)*

**Variances.** In recognition of the fact that zoning ordinances cannot be written to address every circumstance, zoning ordinances must include procedures for seeking relief from strict adherence to the zoning ordinance. This is done by granting to the landowner the ability to obtain a “variance” or “zoning variance” which authorizes a landowner to maintain a use that is otherwise prohibited by the zoning ordinance. (See also definitions and section entitled “Zoning Board of Adjustment.”)

**Appeals.** To obtain a variance, a person must appeal to the Zoning Board of Adjustment or Zoning Board. (See section entitled “Zoning Board of Adjustment” for details.)

**Variance Criteria:** To qualify for a variance it must be demonstrated that the property meets all of the following three requirements:

- a) *Unnecessary Hardship*
  - 1) For use variance – no reasonable use of the parcel as a whole
  - 2) For area variance – non-compliance with standards would unreasonably prevent landowner from using property for permitted purpose or be unnecessarily burdensome.
  - 3) Hardship may not be self-created.
  - 4) Economic or financial hardships is not justification.
- b. *Unique Property Limitations*
  - 1) Limitations such as steep slopes, wetland, shape or size prevent compliance with ordinance.
  - 2) Limitations common to a number of properties is not justification.
  - 3) Circumstances of the individual is not justification
- c. *No Harm to Public Interest*
  - 1) Variance may not harm public interest: Look to ordinance purpose and intent for guidance.
  - 2) Short term, long term and cumulative impacts on neighborhood, community and general public.

**Expiration for Failure to Commence Work:** Where applicable, if the applicant has not substantially commenced work for which the variance was obtained within one (1) year of the date of issuance of the variance, the variance shall expire, unless otherwise provided in the variance.

**Expiration for Failure to Complete Work:** Where applicable, if the applicant has not substantially completed work for which the variance was obtained within two (2) years of the date of issuance of the variance, then, unless otherwise provided in the variance, the variance shall expire and the applicant shall restore the premises as appropriate and only engage in permitted uses.

**Variance Runs with the Land; Conditions to be Specified.** Any variance approved shall specify terms and conditions of approval in writing including requirements and restrictions imposed, and review requirements (if any).

Variances run with the land, unless otherwise specified.

**Denial.** The basis for denial of a variance shall be specified in writing.

**Reapplication for Variance following Denial.** For a period of one (1) year after denial of same, the Zoning Board shall not consider a new application for the same or substantially similar variance.

### **Exemptions**

The following uses are exempted by this ordinance and permitted in any zoning district, subject to other applicable regulations: poles, wires, cables, conduits, vaults, laterals, pipe mains, valves or any other similar distributing equipment for telephone, cable TV or other communications, electric power, gas, water and sewer lines

The provisions in this ordinance regarding filling, grading and work in respect to waterways shall not apply to the construction and repair of public roads, flood control structures, or conservation practices such as terracing, installation of diversions, grass waterways, subsurface drainage, non-navigable drainage ditches, stream stabilization by rip-rapping or vegetative cover, ponds used for agriculture purposes or non-floating docks accessory to private dwellings. This exemption does not affect applicable state or federal law requirements.

## **18. Use regulations**

**Uses Restricted:** In any zone no building or land shall be used and no building shall be hereafter erected, structurally altered or relocated except for one or more of the uses as hereinafter stated for that zone and in compliance with the regulations hereinafter established for that zone. Whenever the Town Zoning Official finds that any construction does not comply with the provisions of this ordinance, the Town Zoning Official shall post, in a conspicuous place on the premises, a stop work order. In addition to imposing fines for violations of stop work orders, the Town may seek injunctive relief, as it deems appropriate for enforcement for the provisions of this ordinance. *(See also General Provisions section of this ordinance regarding Violations and Penalties.)*

**Accessory Uses:** In any zone accessory buildings and uses customarily incident to the permitted uses in that zone shall be permitted subject to such requirements as may be hereinafter designated for that zone in which they are located.

**Temporary Uses:** The Town Board may permit uses such as shelter for materials and equipment being used in the construction of a permanent structure.

**Unclassified Uses:** In case of question as to the classification of a use, the question shall be submitted to the Plan Commission for determination.

**Public Utilities:** The Zoning Board may permit, in appropriate cases and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

## 19. VISUAL CLEARANCES

In each quadrant of every public street or road intersection, there shall be designated a clear vision triangle, bounded by the street or road centerlines and a line connecting points on said centerlines at a specified distance from their point of intersection.

The use of the term "triangle" in this section shall not be construed to preclude reasonable modifications of a triangular shaped area, including modifications resulting from curving streets or roads.

The term "centerline" in this section shall be interpreted as follows:

- a. Where there is an undivided pavement within a right-of-way, the centerline shall be the centerline of that pavement, irrespective of whether or not that coincides with the centerline of the right-of-way.
- b. Where there is a divided pavement within a right-of-way the centerline shall be the centerline of the median strip between the pavements, except as otherwise specified herein.
- b. Where there is a divided pavement within a right-of-way and the distance between the centerlines of the pavements, measured along the centerline of the intersecting street or road is 60 feet or greater, the centerlines of the pavements shall be used separately to designate the clear vision triangles.
- d. The distance specified from the point of intersection of the centerlines to the aforesaid points on the centerlines shall be as specified in the table 1.

Table 1.1

| <i>Type of Road</i>        | <i>Triangle Side Distances</i> |
|----------------------------|--------------------------------|
| State and Federal Highways | 300 Feet                       |
| County Trunk Highways      | 200 Feet                       |
| Town Roads                 | 150 Feet                       |
| Railroad Crossings         | 300 Feet                       |
|                            |                                |

Within the clear vision triangle, no object shall be allowed above a height of 2½ feet above average elevation of the streets at the aforesaid points on their respective centerlines if it substantially obstructs the view across the triangle.

In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object, such as a motor vehicle, clearly visible across the clear vision triangle from one street or road to another, the intent being to provide for the public safety. However, it shall not necessarily be construed to mean that every tree in the clear vision triangle must be removed. In a like manner, this restriction shall not apply to the posts and wires of wire fences, provided that they do not obstruct visibility across the clear vision triangle. Agricultural crops are also exempt from this provision.

## **20. GENERAL SETBACK REQUIREMENTS:**

Class A (state or federal) highway setback shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater. Class B (county) highway setback shall be 30 feet from the right-of-way line. Class C (town) highway setback shall be 30 feet from the right-of-way line.

For purposes of this section, “Highway” and “Right-of-Way” shall mean any existing road, or any road that has been dedicated and accepted by the town, or any road right-of-way, planned or constructed, which is designated on the town Official Map.

### **Structures Permitted within Setback Lines**

- a. Open fences
- b. Petroleum and gas transmission lines; telephone, telegraph and power transmission towers, poles, and lines; and portable equipment both above and below ground that are readily removable in their entirety. Additions to and replacements of all such structures may be made, provided the owner files with the Town Zoning Official of the Town of Saratoga an agreement in writing that the owner will move or remove all new construction, additions and replacements erected after adoption of this ordinance at the owner’s expense, when necessary to the public interest (i.e., highway construction, airport, sewer and water lines, etc.)
- c. Underground structures not capable of being used as foundations for future prohibited over ground structures.
- d. The planting and harvesting of field crops, shrubbery, and trees, except that no trees, shrubbery, or field crops shall be planted so as to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one highway or street to another.
- e. Access or frontage roads constructed by public authorities according to plans approved by the County Highway Committee.

- f. Permitted signs and signs placed by public authorities for the guidance or warning of motorists.

## **21. NON-CONFORMING USES**

Any nonconformity must have included all of the following prior to adoption of this ordinance:

- a. Must have existed on the property in some tangible or physical way; and,
- b. Must have been legal before adoption of this ordinance; and,
- c. Could not be created by right today.

**Building Repair:** Provisions of this ordinance shall not be construed to prevent the customary and necessary maintenance or repairs of buildings, utilities, and property.

**Continuation of Nonconforming Uses:** Any nonconforming lot, structure or use which existed lawfully at the time of the adoption of this ordinance and which remains nonconforming and any such lot, structure or use which shall become nonconforming upon the adoption of this ordinance or of any subsequent amendment thereof may be continued subject to the limitations of this ordinance. The limitations on nonconforming uses are intentional, and have been expressly included in this ordinance to further the public health, safety and general welfare of the Town. Therefore, this ordinance shall be interpreted and applied in a manner that reflects the Town's underlying determination that the land uses set forth in this ordinance are in the public interest. Nonconforming uses are discouraged and limited in order to bring land use in the Town up to the standards set forth in this ordinance.

### **Nonconforming Use:**

- a. Limitations: No nonconforming use shall be expanded or enlarged. No nonconforming use shall include lots or parcels other than the one on which the nonconforming use is located, even if other lots or parcels are under common ownership.
- b. Discontinuance: If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure shall conform to the regulation of the zone in which it is located.

### **Nonconforming Structure:**

- a. Limitations: No such structure shall be expanded or enlarged in excess of 50 percent of its appraised value except in conformity with the regulations of this ordinance.
- b. Restoration due to damage or destruction: A nonconforming structure may be restored to the size, location, and use it had immediately before the damage or destruction occurred provided the damage or destruction was caused by violent



wind, vandalism, fire, flood, ice, snow, mold or infestation. A structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.

c. Relocation: Should a nonconforming structure be moved, it shall thereafter conform to the regulations of the zone to which it is moved.

d. Lot Lines: The size and shape of a lot shall not be altered in any way so as to increase the degree of nonconformity of a building or its use.

e. Replacement: No nonconforming structure shall be replaced except when the Plan Commission and Town Board approve such replacement.

**Nonconforming Lot:**

a. Limitations: No use of a nonconforming lot shall be expanded or enlarged.

b. Discontinuance: If the use or structure on a nonconforming lot is discontinued for 12 consecutive months, any further use of the lot shall conform to the regulations of the zone in which it is located unless.

**22. LIGHTING REGULATIONS:** It is the intent of this section to encourage outdoor lighting practices and systems, which will minimize light pollution, glare, and light trespass while maintaining nighttime safety, utility, security and productivity in the Town of Saratoga. This section shall apply to all zoning districts unless stated otherwise.

a. Lighting in all Districts, must be down lit or shielded in a manner that light rays emitted by the fixture either directly from the lamp or indirectly from the fixture are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted. Examples include, but are not limited to, spotlights, floodlights, and other sources of illumination used to illuminate buildings, signs, landscaping, street graphics, parking and loading areas.

b. All lighting must be directed away from adjacent properties and public rights-of-way to prevent light from trespassing or spilling onto those properties.

c. There shall be no flashing, revolving or intermittent lighting, which could be considered a nuisance or distraction to vehicular traffic.

d. Searchlight, lasers or any similar high-intensity light shall not be permitted, except use in emergencies by police and fire personnel or at their direction.

e. All outdoor flood light projection above horizontal is prohibited.

f. Only streetlights approved by the Town are permitted. For the purpose of this section "Streetlights or street lighting" means lighting specifically designed and constructed for the purpose of illuminating a public roadway.

g. Lighting the American flag, outdoor athletic fields, courts, tracks, ranges, and airports are exempt from all lighting requirements of this section.

h. Temporary lighting, which does not conform to the provisions of this section, may be allowed for a total of no longer than 30 days within a year.

## 23. PARKING REQUIREMENTS

**Purpose:** The purpose of this section is to promote public safety and welfare by reducing congestion on public streets and roads, by requiring sufficient off-street parking, loading, and maneuvering space.

### **General Provisions**

**a. Minimum size regulations:** A minimum of 180 square feet is required for each non-accessible parking space. Parking spaces shall be not less than nine feet in width and eighteen feet in length, plus adequate access, and maneuvering area. The minimum size requirements of the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design may be used for accessible parking spaces rather than the dimensions previously listed.

**b. Reduction and use of parking and loading space:** On-site parking facilities existing on the effective date of this section shall not be reduced to an amount fewer than required herein. If an existing structure or use with fewer than the number of parking and loading spaces required under this section is expanded by less than fifty percent of its gross area, additional parking shall be required only for the addition. If, however, the expansion is greater than fifty percent of the original structure or use, the number of parking spaces required shall

comply with this section. ADA requirements for accessible parking may apply when adding parking spaces.

**c. Computing requirements:** When computing the number of parking spaces required the following shall apply:

1. "Floor Space" means the gross floor area of the specific use
2. For structures containing more than one use, the total number of parking spaces shall be calculated by adding the required number of parking spaces for each use.
3. When parking spaces are calculated according to the number of employees, the greatest number of employees present at one time shall be used to calculate the number of parking spaces required.

**d. Location of parking facilities:** Off-street parking facilities shall be located on the same parcel as the use they are intended to serve. Combined or joint parking facilities may be provided in the Light Commercial (LC), Highway Commercial (HC) and Industrial (I) districts, provided the total number of parking spaces provided equals the number of required spaces for each use. A parking facility shall not be more than 400 feet from the use it is intended to serve.

### **Required number of on-site parking spaces:**

The required number of parking spaces shall be as listed in the following items a-o. Places of public accommodation must also comply with the 2010 ADA Standards for Accessible Design. The Town Zoning Official will determine parking space requirements, for uses not specifically mentioned herein, based on parking regulations for comparable uses.

- a. Single-family dwellings, duplexes, mobile/manufactured homes, and multiple-family dwellings: two spaces per dwelling unit.
- b. Hotels, motels, lodging houses: one space per guest room plus one space per employee.
- c. Hospitals, nursing homes, and similar institutions: one space per four beds, plus one space per employee.
- d. Business or professional offices, medical or dental clinics, veterinary offices, municipal or governmental buildings, and financial institutions: one space per 300 square feet of floor area,
- e. Churches, theaters, and similar places of assembly: one space per five seats or one space per 100 square feet of public floor area.
- f. Nursery school or day care center: one space per ten children, plus one space per two employees.
- g. Manufacturing and processing plants, warehouse, wholesale establishments and similar uses: one space per two employees, plus one space for every business vehicle normally kept on the premises
- h. Restaurants (except drive-ins), nightclubs, tavern: one space per 50 square feet of floor area, plus one space per employee
- i. Retail stores and service establishments: one space per 200 square feet of floor area except for stores specializing in furniture, appliances, flooring, paint, cabinets, etc.; one space per 400 square feet of floor area
- j. Bowling alleys: five spaces per lane
- k. Funeral homes: twenty spaces per chapel, plus one space per vehicle kept on the premises
- l. Recreation facilities, including golf courses, archery ranges, softball fields and tennis courts: one space per three users (participants and spectators) at maximum capacity, plus one space per two employees
- m. Automobile service stations: one space per each employee, plus three spaces per service bay
- n. Drive-in restaurants and fast-food establishments: one space per 100 square feet of customer seating area
- o. Convenience stores with gas sales: one space per 200 square feet of retail area; each parking area adjacent to a pump island or fuel area may count as a parking space.

**On-site loading requirements:** In commercial and industrial districts, adequate loading spaces and areas shall be provided and so located that all vehicles loading, maneuvering, or unloading are completely off the public rights-of-way, and have sufficient on-site maneuvering room to avoid vehicles backing, on a roadway, when entering or exiting a property.

## 24. GENERAL PROVISIONS

**Compliance Required:** The use, size, height and location of structures now existing or hereafter erected, converted, enlarged or structurally altered, the provisions of open spaces, and the use of land, shall be in compliance with the goals, objectives, policies and programs in the Comprehensive Plan, and with the regulations established by this ordinance for the district in which such land or structure is located.

**Minimum Requirements:** This Ordinance has been adopted to promote the health, safety, aesthetics, comfort, prosperity and general welfare of the residents of the Town of Saratoga, and to ensure the prudent use of the Town's natural resources. The Town hereby finds the provisions of the Ordinance to be the minimum requirements to advance these public purposes.

**Abrogation:** This Ordinance shall not repeal, abrogate, annul, impair or interfere with existing easements, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that after adoption by the Town Board, where this ordinance imposes a greater restriction upon the use of buildings or 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 provisions of this ordinance shall apply.

### **Severability.**

If any section, clause, provision or portion of this ordinance is declared unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction including all applicable appeals, the remainder of this ordinance shall remain in full force and effect.

If any application of this ordinance to a particular parcel of land is declared unconstitutional or invalid by a final order of a court of competent jurisdiction, including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

**Fees:** The Town Board may by ordinance or resolution establish reasonable fees for the filing of permit applications, the filing of a petition for amendment of the zoning ordinance or official map, or for filing an appeal to the board of appeals.

## **Violations and Penalties**

**Equitable Relief.** In case of any violation of this ordinance, the Town Board, the Town Zoning Official, the Plan Commission, or any property owner who would be specially damaged by such violation, may cause appropriate action or proceeding to be instituted to enjoin the violation or cause an unlawful structure to be vacated or removed.

**Fines and Forfeitures.** The Town Board may, by resolution or ordinance, establish fines and forfeitures for violations of this ordinance. In the absence of a specified fine or forfeiture, a person found to have violated the provisions of this ordinance shall forfeit not less than \$5.00 nor more than \$1000 for each such violation. Each day of a continuing violation shall be considered a separate offense.

**Costs of Enforcement and Prosecution.** In addition to fines and forfeitures, the person(s) found to have violated the ordinance shall be responsible for the costs of prosecution incurred by the Town for enforcement, including attorney fees, inspection fees, survey fees and other reasonable and necessary consultant fees.

**Remedies Not Exclusive.** The remedies and penalties provided in this section are not exclusive. Nothing in this ordinance shall be construed to prevent the Town or any person from commencing any action, or enforcing any remedy authorized by any other law.