



Town of Sherman Land Use and Zoning Ordinance

Adopted July 1, 2014

Amended July 7, 2015

Amended July 6, 2021

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CHAPTER 1.0 INTRODUCTION

SECTION 1.01 – AUTHORITY

These regulations are adopted under the authority granted by Sections 61.35 and 62.23 (7) in the Wisconsin Statutes and by virtue of the granting of village powers to the Town Board of the Town of Sherman, Sheboygan County, Wisconsin. Therefore, the Town board of the Town of Sherman, Sheboygan County State of Wisconsin does ordain as follows:

SECTION 1.02 – PURPOSE

Promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community.

SECTION 1.03 – INTENT

A. It is the general intent of this ordinance to:

1. Regulate and restrict the use of all structures, lands, and waters.
2. Regulate and restrict the lot coverage, population distribution and density, and the size and location of all structures, so as to preserve agricultural land, woodlands and wetlands, and open land.
3. To concentrate the division of land into small parcels in areas adjacent to present population centers.
4. To give preference to proposals for single-family dwellings over other types of residential development.
5. To allow for the orderly development of:
 - a. Light industry
 - b. Planned recreational areas
 - c. Planned commercial areas
6. Establish and promote plans to control access to heavily traveled highways.
7. Provide adequate light, air, sanitation and drainage.
8. Facilitate the adequate provisions of public facilities and utilities.
9. Stabilize and protect property value.
10. Preserve and promote the beauty of the town.
11. Encourage, enhance, and maintain elements of natural, cultural and historical significance.
12. Implement the town's comprehensive plan or plan components.

- B. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

SECTION 1.04 – ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, and agreements, ordinances, rules regulations, or permits previously adopted or issued pursuant to laws; however, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

SECTION 1.05 – INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town of Sherman and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

SECTION 1.06 – SEVERABILITY AND NON-LIABILITY

- A. If any chapter, section, subsection, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- B. If any application of this ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.
- C. The Town of Sherman does not guarantee, warrant, or represent that only those areas delineated as floodlands, wetlands, or drainageways will be subject to periodic inundation, nor does the Town of Sherman guarantee, warrant, or represent that any soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

SECTION 1.07 – REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

SECTION 1.08 – TITLE

This ordinance shall be known as, referred to, or cited as the “**TOWN OF SHERMAN LAND USE AND ZONING ORDINANCE.**”

SECTION 1.09 – EFFECTIVE DATE

This ordinance shall be effective after a public hearing, adoption by the Town Board, and publication or posting as provided by law.

CHAPTER 2.0 GENERAL PROVISIONS

SECTION 2.01 – JURISDICTION

The jurisdiction of this ordinance shall apply to all structures, land, water, and air within the unincorporated areas of the Town of Sherman, Sheboygan County, Wisconsin.

SECTION 2.02 – COMPLIANCE

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered, without full compliance with the provisions of this ordinance and all other applicable local, county, and state regulations.

SECTION 2.025 – DUTIES OF BUILDING INSPECTOR

- A. The Town Board shall appoint a Building Inspector to perform the duties required by this ordinance. The Building Inspector, or his/her duly designated and acting deputy, shall issue all permits required by this ordinance and maintain records of permits issued, inspections made, and work approved. The Building Inspector shall inspect structures, lands, and waters as often as necessary to reasonably assure compliance with permits issued. The Building Inspector and his/her duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.
- B. Further, the Building Inspector, with the aid of the Constable, shall enforce the provisions of this ordinance by investigating all complaints relating to the location of structures and the use of structures, lands, and waters. The Building Inspector shall give notice of any violation of this ordinance to the owner, resident agent, or occupant of the premises and report the same to the Town Board. If necessary, the Building Inspector shall assist the Town Attorney in the prosecution of violations of this ordinance.

SECTION 2.03 – BUILDING AND OTHER PERMITS

- A. **Permit Required:** No use or structure or any part thereof shall be erected or ground broken for the same, nor shall any person, construct, alter, or enlarge any use or structure in the Town of Sherman without the owner or his/her authorized agent first obtaining any necessary permits required by this ordinance from the Building Inspector.
- B. **Review:** The Building Inspector shall review all permit applications within 60 days for completeness and compliance with the ordinance. Whenever a permit is requested, the Building Inspector shall first determine that the proposed use of the premises as authorized by said permit will comply in every respect with this ordinance and applicable state regulations.
- C. **Approval or Denial:** The Town Board may review any building or other permits issued by the Building Inspector to determine whether the use of the premises under the terms of the permit will comply in every respect with this ordinance and applicable state codes. In the

event that a permit is found by the Town Board to authorize use of the premises which does not comply with this ordinance, the Building Inspector shall revoke said permit.

- D. **Expiration:** A permit shall be automatically revoked if the project set forth in the permit is not completed in two years from the date of issuance of the permit. Said project may be recommenced if the property owner, or owner's agent, applies for and is granted a new building permit.
- E. **Permit Revoked:** A permit may be revoked if a project is not in compliance with its permit. Any work done up to the time of permit revocation shall either be removed or redone in compliance with said permit.
- F. **Other Permits:** It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, county, or local agency.

SECTION 2.035 – OCCUPANCY PERMIT

- A. No structure shall be used as a dwelling until an occupancy permit has been issued by the Building Inspector.
- B. Such permit shall show that the dwelling or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance and applicable state regulations.
- C. Such permit shall be issued only when the dwelling and the proposed use thereof conform with all the requirements of this ordinance and applicable state regulations.
- D. The Building Inspector may issue a temporary occupancy permit for part of a dwelling.
- E. Upon written request from the owner, the Building Inspector shall issue an occupancy permit for any dwelling existing at the time of the adoption of this ordinance, certifying after inspection, the extent and type of use made of the dwelling and whether or not such use conforms to the provisions of this ordinance.

SECTION 2.04 – SITE RESTRICTIONS

- A. No land shall be used or structure erected when the land is held unsuitable for such use or structure by reason of flooding; concentrated runoff; inadequate drainage; adverse soil or rock formation; unfavorable topography; impermeability, high shrink-swell potential or low bearing strength of soils; erosion susceptibility; or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and/or general welfare of the Town of Sherman. The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he/she so desires. Thereafter the Town Board may affirm, modify, or overturn the Plan Commission's determination of unsuitability.

- B. All building sites and private sewer and water systems shall be governed by the Sheboygan County Planning Sanitary, Subdivision, and Shoreland Zoning Regulations, if applicable, in addition to the Regulations adopted in this ordinance.
- C. All principal structures shall be located on a lot and only one principal structure shall be located, erected, or moved onto a lot in a residential district (R-1, R-2, R-3, R-4 or R-R), except as permitted under planned unit developments. The Town Board may allow more than one principal structure per lot in other districts where more than one such structure is needed for the orderly development of the lot. Where additional structures are permitted, the Town Board may impose additional setback, landscaping, and/or parking requirements, or may require a minimum separation distance between principal structures.
- D. No lot shall be created abutting a public street that has not been dedicated to its proposed width.

SECTION 2.05 – VIOLATIONS

- A. It shall be unlawful to construct, alter, enlarge, or use any structure, land, or water in violation of any of the provisions of this ordinance.
- B. Failure to obtain the necessary permits prior to the activities mentioned in 2.03 (A) shall also constitute a violation.
- C. It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to the Building Inspector, Town Clerk, Town Board, Plan Commission, Constable, Town Attorney, or any official acting in an official capacity under this ordinance.
- D. It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist any order issued pursuant to this ordinance.
- E. Any permit issued in conflict with the provisions of this ordinance is invalid.
- F. The failure of any employee, officer, or official of the Town to perform any official duty imposed by this code will not subject the employee, officer, or official to the penalty imposed for violation of this code unless a penalty is specifically provided.

SECTION 2.055 – ENFORCEMENT

- A. The Town Board or its agent may issue a notice of violation of this ordinance. This notice is intended as a warning that unless prompt action is taken to come into compliance with the ordinance, a citation may be issued.
- B. The Town Board or its agent may issue a citation for any violation of this ordinance, and a copy of the citation shall be filed with the Sheboygan County Clerk of Courts.

- C. Whenever a citation from the Town Board or its agent has not been complied with within 30 days after being sent by registered mail to the owner, agent, or occupant of the premises, the Town Board and Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
- D. The Town is not required to issue a citation before taking other appropriate legal action. If the Town or its agent determines that a violation poses a great and immediate danger to the public health, safety, or peace, the Town or its agent shall cause the violation to be abated. Costs associated with said abatement shall be charged to the owner of the property on which said violation has occurred, in accordance with 2.06 (C) of this ordinance. The Town or its agent is hereby authorized to abate a violation of this ordinance.
- E. Nothing in this Section may be construed to prevent the Town from using any other lawful means to enforce this ordinance.

SECTION 2.06 – PENALTIES

- A. A person who receives a warning notice of violation from the Town and thereafter seeks a permit to come into compliance shall pay double the usual permit application fee.
- B. The forfeiture for a violation of the provisions of this ordinance shall not be less than \$100 or more than \$1,000 for each offense, together with the costs of prosecution. Any person who has received a citation for a violation of the provisions of this ordinance may pay the forfeiture and avoid the court appearance or appear at the scheduled court appearance time to dispute the violation. If said person is convicted, the forfeiture shall become due as specified by the court.
- C. A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so, may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- D. A person must, within 30 days of conviction, finding of default, or stipulation of a violation of this ordinance, remove or discontinue the use of any structure, or part of a structure that violates any provision of this ordinance or the terms or conditions of any permit issued pursuant to this ordinance. If a person fails to remove such a structure, or part of a structure, the Town may remove or cause the removal of the structure, or part of the structure. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by registered mail, and shall be payable within 30 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Town Clerk shall enter such charges onto the tax roll as a special tax.

SECTION 2.07 – DAMAGES TO PRIVATE WATER SUPPLY

- A. If a private water supply owner seeks a remedy for a water supply that has become non-potable, suspected to be caused by the owner of a land use within one mile of said private water supply, and submits to the owner of said land use written notice that explains the nature and extent of the problem, a copy of said notice shall be simultaneously submitted to the Town.
- B. Within 24 hours of receipt of such notice the land use owner shall provide an adequate interim water supply. Within 20 days of receipt of said notice, the land use owner shall provide to the private water supply owner and to the Town either 1) a report that demonstrates that the impact to the private water supply was not attributable to the land use, or 2) a plan for a permanent alternative water supply to be paid by the land use owner.

If it is legally determined that the land use owner was not the cause of damage to the private water supply, the land use owner may seek reimbursement from the private water supply owner for the costs of supplying interim water.

SECTION 2.08 – STANDARDS REGARDING HAZARDOUS MATERIALS

- A. All hazardous chemicals shall be stored, used, and disposed of in accordance with applicable state and federal law.
- B. A landowner 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.
- C. Landowners shall have a plan for responding to spills of any hazardous materials on the site. Said plan shall be given to the Town prior to commencing operations, and shall be updated any time any change or addition is made to any hazardous materials used on the site.
- D. The Town Board may impose requirements in addition to or exceeding the guidelines listed above if it has evidence that the public health, safety, or welfare will not be adequately protected without the imposition of additional measures.

CHAPTER 3.0 ZONING DISTRICTS

SECTION 3.01 ESTABLISHMENT

For the purpose of this ordinance, the Town of Sherman, Sheboygan County, Wisconsin is hereby divided into the following zoning districts:

A-1	Agricultural Land Preservation District
A-2	Agricultural Land Preservation District (Small-Scale)
A-1-PR	Agricultural Parcel Remnants District
A-3	Agricultural Land Transition District
B-1	Local Business District
C-1	Natural Resource Conservancy District
M-1	Light Industrial District
M-2	Heavy Industry District
M-3	Resource Extraction District
M-4	Sanitary Landfill District
P-1	Recreational Park District
P-2	Institutional District
R-1	Single-Family Residence District (Sewered)
R-2	Single-Family Residence District (Un-sewered)
R-3	Two-Family Residence District
R-4	Multi-Family Residence District
R-R	Single-Family Rural Residential District

Boundaries of these Districts are hereby established as shown on a map entitled: “***Town of Sherman Zoning Map,***” dated February 7, 1978 and as subsequently amended, which accompanies and is a part of this ordinance. Such boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, center lines of streets, highways, alleys, easements, and railroad right-of-way or such lines extended, unless otherwise noted on the Zoning Map.

(Note: The Zoning Map is updated annually by the Sheboygan County Planning & Conservation Department with information provided by the Town.)

Vacation of public right-of-ways shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

SECTION 3.02 ZONING MAP

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this ordinance and shall bear upon its face the attestation of the Town Chairman and Town Clerk and shall be available to the public in the office of the Town Clerk. Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

SECTION 3.03 FARMLAND PRESERVATION ZONING

A. PURPOSE: Farmland Preservation Zoning in the Town of Sherman includes the A-1, A-2, and A-1-PR Districts. The purpose is to preserve productive agricultural land for food and fiber production; preserve productive farms of all sizes by limiting land use conflicts between incompatible uses; maintain a viable agricultural base to support agricultural processing and service industries; maintain, preserve, and enhance rural open space lands; and comply with the provisions of the Farmland Preservation Law under Ch. 91, Wis. Stats.

B. DENSITY: Residential density under the Town's Farmland Preservation Zoning is 1 residence allowed for every 20 acres of contiguous A-1 land under common ownership. A landowner with 40 vacant, contiguous A-1 acres, for example, can manage the property in a variety of ways (see the table below), but there could not be more than two residences in any development scenario for the 40 acres. This is ensured by the proper use of the non-developable A-1-PR designation for property remnants. (There is no need to track the number of land divisions in perpetuity on a base farm tract.)

To determine the allowable residential "yield" for a particular tract of A-1 land, start with the total A-1 acreage of the tract, ~~and~~ divide by 20, and subtract 1 for each existing residence. Whenever a new residence and/or a land division is proposed, all or part of any remaining land shall be simultaneously rezoned to A-1-PR to prevent exceeding the density in the future. (The landowner also has the option of making the A-1-PR larger than required, to lower the density, as shown in Example C for the vacant 40 acres.)

SIZE / TYPE OF A-1 TRACT	EXAMPLE A	EXAMPLE B	EXAMPLE C
40 contiguous acres with an existing residence	No division = 1 residence	Divide into 15-acre A-2 with existing residence, 20-acre A-1 and 5-acre A-1-PR = 1-2 residences	Divide into 20-acre A-1 with existing residence, and 20-acre A-1 = 1-2 residences
Vacant, contiguous 40 acres	No division = 0-1 residence	Divide into 20-acre A-1 , 10-acre A-1-PR and 10-acre A-2 = 0-2 residences	Divide into 10-acre A-2 and 30-acre A-1-PR = 0-1 residence
Vacant, contiguous 88 acres	No division = 0-1 residence	Divide into four 22-acre A-1 = 0-4 residences	Divide into two 10-acre A-2 , 40-acre A-1 , 28-acre A-1-PR = 0-4 residences

Note 1: The table does not show all possible options.

Note 2: Although a residence can be built on a vacant A-2 lot, the lot can also remain undeveloped. Nevertheless, once an A-2 lot is created, one residence is subtracted from the yield calculation.

C. REPORTING: By March 1st of each year, the Town shall report to DATCP and Sheboygan County the total acres rezoned out of the Town's Farmland Preservation Zoning during the preceding year and a map that clearly shows the location of those acres.

SECTION 3.04 A-1 AGRICULTURAL LAND PRESERVATION DISTRICT

A. PURPOSE: To provide lands for larger agricultural operations, and to maintain, preserve, and enhance rural open space lands.

B. PERMITTED USES:

1. Agricultural uses conducted for the purpose of producing an income or livelihood:

- a.** Agronomic crop production
- b.** Apiculture
- c.** Aquaculture and/or fish hatcheries
- d.** Dairying
- e.** Diversified Farming
- f.** Fallow land
- g.** Floriculture
- h.** Fur farming
- i.** Grazing
- j.** Greenhouses
- k.** Hatcheries
- l.** Horticultural crop production
- m.** Nursery, sod, and Christmas tree production
- n.** Raising livestock
- o.** Silviculture
- p.** Viticulture

2. Farm accessory uses

- a.** A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- b.** A single-family residence that is the only residential structure on the farm.
- c.** A business, activity, or enterprise conducted by the owner or operator of a farm, that does not impair or limit the current or future agricultural use of the farm or other farmland, and that meets all of the requirements for a home occupation as described in Section 3.30 of this ordinance.
- d.** Portable storage units (12/07/21)
- e.** Solar energy systems, small-scale (12/07/21)

3. Undeveloped natural resource and open space areas, and associated conservation practices.

- a.** Hunting, fishing, trapping, and consumption of naturally replenishing resources.

4. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a

specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

5. Residences existing as of January 1, 2014, regardless of occupancy. (Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt as a permitted use, provided that the rebuilt residence occupies the same general footprint or an alternate site that, in the judgment of the Plan Commission, does not impair agricultural uses to any greater degree than the original residence.)
6. Utilities, minor

C. CONDITIONAL USES:

1. Agricultural and agricultural related uses
 - a. Animal hospitals that primarily service livestock, provided all structures and uses are not less than 100 feet from any residential district
 - b. Animal slaughtering and/or butchering establishments
 - c. Ethanol plants, bio-diesel plants, communal manure digesters, pelletizing plants, or other facilities that process raw agricultural commodities, agricultural by-products, or agricultural wastes (received directly from farms) to produce fuel or other products
 - d. Facilities that provide farm inputs such as fertilizer, pesticides, seed, or feed directly to farms
 - e. Facilities primarily engaged in sale and servicing of farm vehicles or other farm equipment
 - f. Facilities primarily engaged in providing agronomic or veterinary services to farms
 - g. Feed mills or rendering plants that process raw agricultural commodities or agricultural by-products received directly from farms, or supply animal feed directly to farms
 - h. Food processing plants that process raw agricultural commodities received from farms
 - i. Grain warehouses, potato warehouses, or other warehouses that store raw agricultural commodities received from farms
 - j. Sawmills or other facilities that process wood or other forest products received directly from farms
2. Compatible infrastructure
 - a. Airports, air strips, and landing fields, provided the sited area is not less than 20 acres
 - b. Communication uses, including transmission lines, antennae, and broadcast towers
 - c. Disposal areas
 - d. Drainage practices that meet ch. 91.46(4), Wis. Stats.
 - e. Solar energy systems, large- and mid-scale (12/07/21)

- f. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities
 - g. Utilities, major
- 3. Government, nonprofit, and/or charitable organizations related to agriculture
- 4. Nonmetallic mineral extraction, provided the operation complies with Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter, applicable provisions of Section 3.12 of this ordinance, applicable provisions of Chapter 78 of the Sheboygan County Nonmetallic Mining Reclamation Ordinance, and any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites. The owner is required to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.
- 5. A single-family or two-family residence built after January 1, 2014 that is the only residential structure on the property and meets the following conditions:
 - a. The location and size of the proposed residential lot and, for a new residence, the location of the residence on that residential lot, will not do any of the following:
 - i.) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a residential lot or residence.
 - ii.) Significantly impair or limit the current or future agricultural use of other protected farmland.
 - b. The applicant submits a color aerial photo, no more than two years old, and of sufficient size and resolution to determine whether lands have been under agricultural use, along with a brief written statement describing how the proposed lot and/or residence will not do either of subsections i.) or ii.) above.
 - c. Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt without a renewal of the conditional use permit, provided that the rebuilt residence occupies the same general footprint. A new conditional use permit will be required if an alternate site is desired; the alternate site must not impair agricultural uses to any greater degree than the original residence.

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

- 1. **Specific standards** for conditional use permits in the A-1 District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed below:
 - a. The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning

district than to an industrial or commercial zoning district. NOTE: This standard does not apply to sub. (C) (2), (3), (4) or (5) of this Section.

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

- 2. **General requirements** and guidelines for conditional use permits: See Section 5.0 of this ordinance.

E. REZONING LAND OUT OF THE A-1 DISTRICT

- 1. The Town may not rezone land out of the A-1 district unless the land is rezoned to A-2 and/or A-1-PR or prior to the rezoning the Town finds all of the following in writing, after a public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1 district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
 - c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

F. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|----------------------|---|
| 1. Tract, Lot Area | 20-acre minimum |
| 2. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater. |
| 3. Lot Width | Minimum 100 feet |
| 4. Lot Road Frontage | Minimum 66 feet |

- | | |
|------------------------|------------------|
| 5. Lot Building Height | Maximum 45 feet |
| 6. Structure Height | Maximum 199 feet |

SECTION 3.05 A-2 AGRICULTURAL LAND PRESERVATION DISTRICT (SMALL-SCALE)

A. PURPOSE: To encourage small farms and to maintain, preserve, and enhance rural open space lands.

B. PERMITTED USES: All permitted uses listed in the A-1 District.

C. CONDITIONAL USES:

1. All conditional uses listed in the A-1 District.
2. Non-improved, temporary campgrounds

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

1. **Specific standards** for conditional use permits in the A-2 District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed in Section 3.04 D. 1. of this ordinance.
2. **General requirements** and guidelines for conditional use permits: See Chapter 5.0 of this ordinance.

E. DEVELOPMENT OF A-2 PARCELS:

1. Only one residence is allowed on an A-2 lot. No additional A-2 lots may be created out of an existing A-2 lot.
2. To facilitate the preservation of continuous areas of protected farmland, the Town encourages the clustering of residences.

F. REZONING LAND OUT OF THE A-2 DISTRICT:

3. A-2 land may not be divided unless only one part remains A-2 and any remnant is rezoned to A-1-PR. A rezoning to any other district may only be approved by the Town Board after a public hearing and finding all of the following in writing as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-2 or A-1-PR district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
 - c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

G. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | Minimum 3.0 acres – 19.99 maximum acres |
| 7. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater. |
| 2. Lot Width | Minimum 100 feet |
| 3. Lot Road Frontage | Minimum 66 feet |
| 4. Lot Building Height | Maximum 45 feet |
| 5. Structure Height | Maximum 199 feet |

SECTION 3.06 A-1-PR AGRICULTURAL PARCEL REMNANTS DISTRICT

A. PURPOSE: To accommodate parcel remnants that remain worthy of farmland or open space preservation. No buildings shall be allowed and parcels in this district are not intended to be rezoned for development, except in rare cases.

B. PERMITTED USES: All uses permitted in the A-1 District, except that no buildings shall be permitted on A-1-PR zoned farmlands.

C. CONDITIONAL USES: All conditional uses listed in the A-1 District, except that no buildings shall be allowed on A-1-PR zoned lands.

D. CONDITIONAL USE STANDARDS, REQUIREMENTS, AND GUIDELINES:

1. **Specific standards** for conditional use permits in the A-1-PR District: The Town Board may issue a conditional use permit for a proposed land use identified in this Section only after determining in writing that the proposed use meets the applicable conditions listed in Section 3.04 D. 1. of this ordinance.
2. **General requirements** and guidelines for conditional use permits: See Chapter 5.0 of this ordinance.

E. DELINEATING A-1-PR LAND ON A PROPERTY:

1. A landowner may locate A-1-PR on his/her property wherever the landowner wishes, subject to the restrictions of this ordinance. The Town Plan Commission may require a plat of survey to accurately locate the district boundaries on the Town Zoning Map.
2. Subject to the restrictions of this ordinance, the landowner reserves the right to relocate the boundary of any A-1-PR on the landowner's A-1 and/or A-2 property at any time by submitting an application and fee payment for rezoning with the Town Clerk. The Town Plan Commission may require a plat of survey to accurately locate the revised district boundary on the Town Zoning Map.

F. REZONING LAND OUT OF THE A-1-PR DISTRICT:

1. The property may not be rezoned to some other district unless approved by a super-majority vote of the Town Board. If the super-majority vote of approval is not met, the application is considered denied.
2. A rezoning to any other district may only be approved by the Town Board after a public hearing and finding all of the following in writing as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1-PR district.
 - b. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.

- c. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

G. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|---------------------|---|
| 1. Area | No minimum. (Note: Areas zoned A-1-PR may be parts of tracts or lots; they need not be separate tracts or lots. In such cases the landowner has the right to determine which part of the property is designated A-1-PR, subject to subsections (A), (B), (C), and (D).) |
| 2. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed structure, or 15 feet, whichever is greater. |
| 3. Lot Width | Not applicable |
| 4. Road Frontage | Not applicable |
| 5. Building Height | Not applicable |
| 6. Structure Height | Maximum 60 feet |

SECTION 3.07 A-3 AGRICULTURAL LAND TRANSITION DISTRICT

A. PURPOSE: To allow for continued agricultural use while providing for the orderly transition into other uses of such agricultural land as may be appropriate for lands adjacent to population centers and/or within highway growth corridors.

B. PERMITTED USES: All permitted uses listed in the A-1 District, with the addition of a single-family residence regardless of when constructed. (07/06/2021)

C. CONDITIONAL USES:

1. All conditional uses listed in the A-1 District
2. Campgrounds

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0 of this ordinance.

E. REZONING LAND OUT OF THE A-3 DISTRICT:

1. Since A-3 is a transitional district, rezoning requests will generally be granted for uses typical of population centers and highway growth corridors if they meet the following standards:
 - a. The rezoning is not in conflict with any village subdivision ordinances that apply in an extraterritorial platting jurisdiction.
 - b. The rezoning is consistent with any comprehensive plans adopted by the Town, Village of Adell, or Village of Random Lake that are in effect at the time of the rezoning.

F. AREA – SETBACKS – ROAD FRONTAGE – HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | Minimum 1.0 acre |
| 8. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the proposed building or structure, or 15 feet, whichever is greater. |
| 2. Lot Width | Minimum 100 feet |
| 3. Lot Road Frontage | Minimum 66 feet |
| 4. Lot Building Height | Maximum 45 feet |
| 5. Structure Height | Maximum 199 feet |

SECTION 3.08 – B-1 LOCAL BUSINESS DISTRICT

A. PURPOSE: The purpose of the B-1 District is to provide for the proper location and regulation of commercial, retail, professional, and service operations that are not detrimental to the immediate surrounding area or to the Town as a whole. The intent of these regulations is to minimize potential adverse effects (including but not limited to lighting, noise, dust, traffic, physical appearance, etc.) of these uses. It is therefore intended that such uses will be reasonably compatible with the surrounding uses in the area.

B. PERMITTED USES:

1. Appliances, computers, or electronics—sales and/or services
2. Artistic/creative schools, studios, and/or shops (dance, music, photography, etc.)
3. Building or yard—sales and/or services for development, maintenance, or improvement (hardware store, garden center, mechanical contractor, sign painter, plumber, etc.)
4. Clothing, footwear, or personal accessories—sales and/or services
5. Collectibles—sales and/or services (antiques, books, music, models, etc.)
6. Communication enterprises (newspaper office, radio station, etc.)
7. Day-care facilities or pre-schools
8. Financial institutions or services (banks, credit unions, financial planners, etc.)
9. Fitness or sports—sales and/or services (fitness center, yoga, martial arts, sporting goods, bicycle shop, etc.)
10. Florist and/or gift shops
11. Food and drink—sales, packaged, *without* alcohol (convenience store, market, etc.)
12. Food and drink—sales, prepared, *with* alcohol (restaurant, caterer, tavern, etc.)
13. Food and drink—sales, prepared, *without* alcohol (deli, coffee shop, bakery, etc.)
14. Furniture or interior accessories—sales and/or services
15. Health care sales and/or services (clinics, optometrists, dentists, pharmacies, etc.)
16. Internet cafés
17. Laundromats
18. Lodges, meeting halls, offices of labor organizations, or similar facilities
19. Mini-warehouse storage facilities
20. Motor vehicle sales and/or services *without* fuel storage tanks
21. Office support and/or supplies
22. Personal grooming or therapeutic body work—sales and/or services (salon, spa, etc.)
23. Pet shops
24. Portable storage units (12/07/21)
25. Professional offices (attorney, realtor, insurance agent, etc.)
26. Public safety facilities (fire station, police station, emergency shelter, etc.)
27. Residences, as an accessory use
28. Solar energy systems, small-scale (12/07/21)
29. Tobacco and/or pipe and accessory shops

- 30. Utilities, minor
- 31. Wine, liquor, and/or fermented malt beverage—retail sales

C. CONDITIONAL USES:

- 1. Campgrounds
- 2. Construction and/or contracting businesses, or lumber yards, with all operations and storage (not including off-street parking and loading of vehicles in operating condition) conducted and maintained wholly inside of buildings, except that storage may be maintained outside if no part of the storage is less than 15 feet from any lot line of the tract on which the use is located and provided any such storage is screened from other properties with a decorative fence or planting
- 3. Cultural facilities (library, museum, indoor theater, community center, etc.)
- 4. Department stores
- 5. Drive-Ins serving food or beverages for consumption outside the structure
- 6. Funeral homes and/or crematories, provided all principal structures and uses are not less than 25 feet from any lot line
- 7. Greenhouses or similar growing facilities
- 8. Lodging facilities (hotel, motel, etc.)
- 9. Motor vehicle sales and/or services, provided all fuel pumps are not less than 30 feet from any side or rear lot line and 20 feet from any existing or proposed road right-of-way line
- 10. Outdoor theaters, provided that a planting screen at least 25 feet wide is created along any side abutting a residential district and no access is permitted to or within 1,000 feet of an arterial street
- 11. Parks
- 12. Penal / correctional institutions (for-profit)
- 13. Planned Unit Developments
- 14. Playgrounds
- 15. Recreation-related businesses—indoor (bowling alley, dance hall, arcade, etc.)
- 16. Recreation-related businesses—outdoor (shooting range, driving range, miniature golf, etc.)
- 17. Salvage / junk dealers
- 18. Solar energy systems, mid-scale (12/07/21)
- 19. Tattoo and/or piercing establishments
- 20. Transportation provision (terminals, helipads, taxis, rentals, etc.), provided all principal structures and uses are not less than 100 feet from any residential district boundary
- 21. Utilities, major
- 22. Wine, liquor, and/or fermented malt beverage—production

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|------------------------|---|
| 1. Tract, Lot Area | 30,000 square feet minimum |
| 2. Setbacks | Side yards and rear yard: 20 feet minimum
Street yard: minimum from roadway right-of-way equal to the highest point of the roof of the highest principal building or structure |
| 3. Lot Width | Minimum 120 feet |
| 4. Lot Road Frontage | Minimum 66 feet |
| 5. Lot Building Height | Maximum 45 feet |

F. PARKING:

- | | |
|-----------------------|--|
| 1. Off-Street Parking | Sufficient parking for employees and customers shall be provided |
|-----------------------|--|

SECTION 3.09 – C-1 NATURAL RESOURCE CONSERVATION DISTRICT

A. PURPOSE: To preserve woodlands, scenic areas, areas of significant topography, lakes, streams, wetlands and floodplains, improve water quality, minimize potential property damage by flooding or erosion, protect wildlife habitat, or provide recreational opportunities.

B. PERMITTED USES:

1. Dugout ponds and level ditches
2. Flood overflow and movement of water
3. Forestry and game management
4. Hiking trails
5. Hunting, fishing, and/or wildlife preserve; or other historic/scientific areas
6. Navigation
7. Utilities, minor
8. Wild crop harvesting, including marsh hay, moss, ferns, wild rice, berries, fruit, nuts, and seeds

C. CONDITIONAL USES:

1. All structures related to the Permitted Uses listed in subsection B. (12/07/21)
2. Conservation organizations

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. PROHIBITED ACTIVITIES:

1. Dumping or filling
2. Removal of any mineral, soil, or peat
3. Any use which would disturb the natural flora, fauna, watercourses, water regimen, or topography

F. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Area | No minimum |
| 2. Setbacks | To be determined by terms of conditional use permit |
| 3. Lot Width | Not applicable |
| 4. Road Frontage | Not applicable |
| 5. Building Height | To be determined by terms of conditional use permit |

SECTION 3.10 – M-1 LIGHT INDUSTRIAL DISTRICT

A. PURPOSE: To coincide with existing areas of light industry adjacent to population centers and provide areas for the establishment and expansion of such industries suitable for rural areas and compatible with adjacent lands.

B. PERMITTED USES:

1. Blacksmiths
2. Building material sales
3. Commercial radio or television transmitting antenna towers or other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages
4. Contractor and/or construction offices, shops, and/or yards (building, cement, electrical, heating, ventilating and air conditioning, masonry, lumber, painting, plumbing, refrigeration, roofing, etc.)
5. Dry-cleaning plants and/or laundries
6. Emergency services or shelters
7. Enameling
8. Feed mills
9. Governmental administrative and/or services facilities
10. Machinery rental, sales, and/or services
11. Machine shops, metal products manufacture, and/or tool and die shops
12. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal food, beverage, material, organic substance, device, component, or consumer good.
13. Meeting halls and/or offices of labor organizations
14. Monument stone cutting
15. Motor vehicle services
16. Pattern shops
17. Plating operations (electroplating, chrome plating, gilding, galvanizing, etc.)
18. Portable storage units (12/07/21)
19. Printing, binding, fulfillment, and/or lithography facilities
20. Professional or business offices
21. Public safety facilities (fire station, police station, emergency shelter, etc.)
22. Residential uses, if already existing prior to the adoption of this ordinance and only as long as said residential use continues to exist
23. Road test facilities
24. Sign painting
25. Slaughterhouses
26. Solar energy systems, small-scale (12/07/21)
27. Soldering and/or welding shops

28. Trade schools and/or training facilities
29. Utilities, minor
30. Warehouses, lockers, or cold storage facilities
31. Wine, liquor, and/or fermented malt beverage—production

C. CONDITIONAL USES: The following, provided that no associated impacts (e.g., soot, smoke, noise, vibration, odor, etc.) are detectable off-site and also provided that the uses pose no significant risks due to the involvement of explosives, radioactive materials, poisons, corrosives, pesticides, herbicides, or other hazardous materials in the manufacturing or processing of materials.

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Animal hospitals
3. Crematories
4. Halfway houses or group homes
5. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal chemical or fuel product.
6. Penal / correctional institutions
7. Recreational facilities, indoor (shooting ranges, skating rinks, swimming pools, athletic courts, etc.)
8. Research laboratories
9. Salvage / junk dealers
10. Sawmills
11. Solar energy systems, mid-scale (12/07/21)
12. Stockyards
13. Transportation terminals for passengers and/or freight (bus, heliport, tax, rail, etc.)
14. Utilities, major
15. Waste storage, treatment, or recycling facilities
16. Water filtration plants

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|----------------------|---|
| 1. Tract, Lot Area | 1-acre minimum |
| 2. Setbacks | Street yard, side yards, and rear yard, all equal to the highest point of the roof of the highest principal building or structure, or 50 feet, whichever is greater |
| 3. Lot Width | Minimum 120 feet |
| 4. Lot Road Frontage | Minimum 66 feet |

5. Lot Building Height

Maximum 45 feet

SECTION 3.11 – M-2 HEAVY INDUSTRIAL DISTRICT

A. PURPOSE: To coincide with existing areas of heavy industry adjacent to population centers and to provide areas for the establishment and growth of heavy industry compatible with adjacent lands.

B. PERMITTED USES:

1. Blacksmiths
2. Building material sales
3. Commercial radio or television transmitting antenna towers or other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages
4. Contractor and/or construction offices, shops, and/or yards (building, cement, electrical, heating, ventilating and air conditioning, masonry, lumber, painting, plumbing, refrigeration, roofing, etc.)
5. Dry-cleaning plants and/or laundries
6. Emergency services or shelters
7. Enameling
8. Feed mills
9. Foundries
10. Governmental administrative and/or services facilities
11. Incinerators
12. Leather and leather products
13. Machinery rental, sales, and/or services
14. Machine shops, metal products manufacture, and/or tool and die shops
15. Manufacturing, assembling, fabricating, packaging, processing, repairing, servicing, cleaning, storing, refining, distilling, condensing, bottling, baking, canning, preserving, or testing any legal food, beverage, material, organic substance, chemical, fuel, device, component, or consumer good.
16. Meeting halls and/or offices of labor organizations
17. Monument stone cutting
18. Motor vehicle services
19. Pattern shops
20. Paving and aggregate-based materials—production (cement, concrete, asphalt, etc.)
21. Plating operations (electroplating, chrome plating, gilding, galvanizing, etc.)
22. Portable storage units (12/07/21)
23. Printing, binding, fulfillment, and/or lithography facilities
24. Professional or business offices
25. Public safety facilities (fire station, police station, emergency shelter, etc.)
26. Public utility production and/or distribution centers
27. Railroad yards and switching areas

28. Research laboratories
29. Residential uses, if already existing prior to the adoption of this ordinance and only as long as said residential use continues to exist
30. Road test facilities
31. Salvage / junk dealers
32. Sawmills
33. Sign painting
34. Slaughterhouses
35. Smelting
36. Solar energy systems, small-scale (12/07/21)
37. Soldering and/or welding shops
38. Trade schools and/or training facilities
39. Transportation terminals for passengers and/or freight (bus, heliport, tax, rail, etc.)
40. Utilities, minor
41. Warehouses, lockers, or cold storage facilities
42. Waste storage, treatment, or recycling facilities
43. Water filtration plants
44. Wine, liquor, and/or fermented malt beverage—production

C. CONDITIONAL USES: Outdoor storage of materials is allowed and does not have to be screened from adjacent properties or public view. Associated impacts (e.g., soot, smoke, noise, vibration, odor, etc.) need not be contained on-site.

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Animal hospitals
3. Halfway houses or group homes
4. Penal / correctional institutions
5. Recreational facilities, indoor (shooting ranges, skating rinks, swimming pools, athletic courts, etc.)
6. Solar energy systems, mid-scale (12/07/21)
7. Stockyards
8. Utilities, major
9. Waste disposal facilities

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|------------------|--|
| 1. Lot Area
& | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Plan Commission following the review of a professionally prepared site plan |
| 2. Setbacks | |
| 3. Lot Width | Minimum 120 feet |

- | | |
|--------------------|--|
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.12 – M-3 RESOURCE EXTRACTION DISTRICT

A. PURPOSE: To provide for and regulate commercial extraction, processing, stockpiling, and transporting of geological resources as long-term transitional uses. The intent of these regulations is to minimize potential adverse effects (including but not limited to noise, dust, flash, vibration, traffic, groundwater depletion, sinkholes, and physical appearance) of these uses on surrounding lands while operations are active and, to the maximum extent practicable, restore the site after operations have ceased.

B. PERMITTED USES:

1. Portable storage units (12/07/21)
2. Processing of topsoil
3. Solar energy systems, small-scale (12/07/21)
4. Utilities, minor

C. CONDITIONAL USES:

1. Disposal areas
2. Incinerators for soil and/or aggregate materials
3. Sewage disposal plants
4. Washing, blending, blasting, grading, crushing, screening, scalping, refining, processing, stockpiling, dewatering, and/or transporting of rock, slate, gravel, sand or minerals
5. Production of aggregate-based building and paving materials (e.g., cement, concrete, asphalt)
6. Other liquids, gases, minerals extracted, processed, stockpiled, packaged, and/or transported
7. Solar energy systems, mid-scale (12/07/21)
8. Utilities, major
9. Water extraction, processing, bottling, packaging, and/or transporting

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

In addition to the general requirements and development guidelines in Sections 5.03, 5.04, and 5.05, the specific guidelines listed in this Section shall be considered by the Plan Commission and Town Board when reviewing proposed conditional uses in the M-3 District, and one or more guidelines may, at the discretion of the Town Board, be applied as binding standards to any M-3 conditional use permit in order to maintain the vision, purpose, and intent of this ordinance and the Town's 20-Year Comprehensive Plan. Further, this list does not limit the Town if it finds it necessary to attach additional conditions to a permit beyond those listed below.

All responses from permit applicants shall be in writing and shall be attached as an addendum to the conditional use permit application.

1. Operation Plan Guidelines

- a. Dates of the planned commencement and cessation of the operation.
- b. Description of machinery, equipment, and methods to be used, particularly whether blasting is anticipated.
- c. Estimated volume of material to be extracted over the life of the operation and for the next two calendar years; estimated volume of material to be processed over the life of the processing facility and for the next two calendar years.
- d. Identification of all proposed in-bound and out-bound trucking routes, together with the estimated frequency of traffic and the general schedule of travel to be used for transporting extracted materials or products.
- e. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the site, including methods used for infiltration and control of run-off.
- f. A listing of any hazardous materials, including explosives and fuel supplies that will be stored on site and a description of measures to be used for securing and storing these materials. A copy of this list shall also be sent to the applicable Fire Department(s).
- g. A listing of all flocculants and other chemicals used in the manufacturing or processing operations or in controlling dust, and a detailed description of expected releases and final disposal of each.
- h. Information establishing baseline conditions at the site before operations commence, including the groundwater elevation across the site, groundwater quality at the site 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, and the base flow of surface waters within one-half mile of the site.

2. Operation Guidelines

- a. The operator of the site shall stake or otherwise mark the borders of the site and shall secure the site by fencing or other appropriate measures.
- b. The operator shall demonstrate that all other applicable federal, state, county, and local plans, permits and approvals required for operation have been or will be obtained prior to commencement of operation. The operator shall demonstrate this by submitting a copy of all plans, permits, approvals, or waivers of permits to the Town prior to commencing operations.
- c. The operator shall provide notice to the Town of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the operation within the Town within 15 days of receiving such notice from the governmental body.
- d. The operator shall limit normal hours of operations to 12 hours a day Monday through Friday during daylight hours and not earlier than 5:00 AM and not later than

7:00 PM to minimize off-site impacts to residents. The operator may submit a plan for extended hours as a special exception if it can demonstrate that additional hours are reasonably necessary for the mining operation and it would be consistent with public health, safety, and welfare.

- e. The operator shall ensure that trucks from the mining site shall not interfere with the safety of children being taken to or returned from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volumes from commuters going to and from work is highest.
- f. Portable lighting shall be used only as necessary to illuminate temporary work areas.
- g. 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.

3. Groundwater and Surface Water Guidelines

The use of water shall be prohibited in any operation where the quantity of water required will adversely affect the supply of other uses in the area, or where disposal of the water will adversely affect the supply of uses in the area, or will result in contamination, pollution, or excessive saltation.

- a. The operation shall have at least one sentinel well at the boundary of the site 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 2 years of operation and twice a year in subsequent years.
- b. The operator shall sample private wells within one-quarter mile of the site down gradient of the groundwater flow every 2 years and private wells on the perimeter of other sides of the site every 3 years. In addition, monitoring at the sentinel well shall determine changes in the level of the groundwater table.
 - i.) Prior to the onset of operations, all private wells within one mile of the property on which the site is located shall be sampled for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity 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.
 - ii.) Operations shall not cause an exceedance of groundwater quality standards in the Wisconsin Administrative Code.
- c. Operations shall not extract materials at a depth below the point that is 5 feet above the groundwater table.
- d. Operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one mile of the site. A significant reduction is a drop in the water table that results in a substantial adverse impact on

a private well including but not limited to the inability of a well to provide water on a continuous basis.

- e. Operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one mile of the site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.
- f. Operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational, or municipal functions such as fire protection within one mile of the site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of the operation.

4. Additional Requirements

The Town Board may impose requirements in addition to or exceeding the guidelines listed above if it has evidence that the public health, safety, or welfare will not be adequately protected without the imposition of additional measures.

5. Financial Assurance

- a. Financial assurance shall be provided to the Town as a condition of permit approval in the amount necessary for the repair and maintenance of Town roads used for truck traffic transporting materials to or from the site.
- b. The form of financial assurance made to the Town of Sherman shall be that form agreed to by the Town Board and may include performance bonds, escrow agreements, irrevocable letters of credit or other measures agreed upon by the Town Board. Both the form of assurance and the financial amount may be changed whenever the conditional use permit comes up for renewal—or sooner as specified in sub. (D) (5) (c) of this Section.
- c. If at any time after a permit is issued, the Town determines that the amount of financial assurance must be increased to meet specific road repair, or the amount available has been utilized, the Town shall notify the operator of the additional amount needed and the basis for the request. The operator shall have 30 days to provide the increased amount, unless otherwise specified.

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------|---|
| 1. Lot Area | Sufficient area for the principal structure and its |
| & | accessory structures, all required yards and off-street |
| 2. Setbacks | parking and loading, and all private or public utilities, |
| | as determined by the Town Board following the |
| | review of a professionally prepared site plan |
| 3. Lot Width | Minimum 120 feet |

- | | |
|--------------------|--|
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.13 – M-4 SANITARY LANDFILL DISTRICT

A. PURPOSE: To provide sites for total solid waste disposal needs, in compatibility with adjacent use districts

B. PERMITTED USES:

1. Grazing of livestock
2. Portable storage units (12/07/21)
3. Solar energy systems, small-scale (12/07/21)
4. Utilities, minor

C. CONDITIONAL USES: A detailed operation and restoration plan is required and must be in compliance with the Wisconsin Administrative Code.

1. Disposal areas
2. Incinerators
3. Recycling facilities
4. Sewage disposal plants
5. Solar energy systems, mid-scale (12/07/21)
6. Transfer stations
7. Utilities, major

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

In addition to the general requirements and development guidelines in Sections 5.03, 5.04, and 5.05, the specific conditional use guidelines listed in Section 3.13(D) for the M-3 District may also be applied to the M-4 District.

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area
& | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 2. Setbacks | |
| 3. Lot Width | Minimum 120 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.14 – P-1 PARK AND RECREATION DISTRICT

A. PURPOSE: To preserve lands in a natural state for recreational uses or allocate lands for development of recreational uses.

B. PERMITTED USES:

1. Arboretums
2. Parks
3. Passive recreation (hiking, picnicking, bird watching, community gardening, etc.)
4. Portable storage units *(12/07/21)*
5. Solar energy systems, small-scale *(12/07/21)*
6. Utilities, minor
7. Water-related recreational uses (fishing, boating, swimming, wading, beaches, etc.)
8. Winter-related recreational uses (ice skating, sledding, skiing, snowboarding, etc.)

C. CONDITIONAL USES: All of the uses listed below, as well as any structures accompanying otherwise permitted uses, shall require a conditional use permit. (The Town Board has the option of refunding the conditional use permit fee upon proof from the applicant of its public or non-profit status.)

1. Archery ranges
2. Bath houses
3. Camps
4. Campgrounds
5. Conservatories
6. Driving ranges
7. Golf courses
8. Horse-related activities (riding academy, polo field, etc.)
9. Motorsport tracks/courses
10. Nature centers
11. Paintball, laser tag, or similar activities
12. Playgrounds
13. Shooting ranges
14. Skating parks
15. Skiing and/or snowboarding facilities
16. Solar energy systems, mid-scale *(12/07/21)*
17. Sport fields / courts
18. Stadiums
19. Swimming pools
20. Utilities, major
21. Zoological and botanical gardens

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|---------------------------------|---|
| 1. Lot Area
&
2. Setbacks | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.15 – P-2 INSTITUTIONAL DISTRICT

A. PURPOSE: To provide suitable areas for semi-public uses owned by nonprofit organizations, as well as to accommodate lands and facilities owned by local governmental units, Sheboygan County, the State of Wisconsin, or federal agencies.

B. PERMITTED USES:

1. Arboretums
2. Cemeteries and/or memorial gardens
3. Dedicated public right-of-ways
4. Libraries
5. Museums
6. Parks
7. Playgrounds
8. Portable storage units (12/07/21)
9. Public safety facilities (fire station, police station, emergency shelter, etc.)
10. Religious institutions
11. Schools (JK-12)
12. Solar energy systems, small-scale (12/07/21)
13. Utilities, minor

C. CONDITIONAL USES:

All of the uses listed below shall require a conditional use permit. (The Town Board has the option of refunding the conditional use permit fee upon proof from the applicant of its public or non-profit status.)

1. Airports, air strips, or landing fields, provided the site is not less than 20 acres
2. Colleges / universities
3. Community centers
4. Convention centers, exhibition halls, and/or similar facilities
5. Fraternal organizations or sororities
6. Halfway houses or group homes
7. Health care facilities
8. Non-profit organization facilities
9. Nursing homes
10. Penal / correctional institutions
11. Retirement homes, assisted living complexes, and/or similar facilities
12. Solar energy systems, mid-scale (12/07/21)
13. Utilities, major

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|---------------------------------|---|
| 1. Lot Area
&
2. Setbacks | Sufficient area for the principal structure and its accessory structures, all required yards and off-street parking and loading, and all private or public utilities, as determined by the Town Board following the review of a professionally prepared site plan |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet |
| 5. Building Height | Maximum 45 feet, except that a building or structure may exceed 45 feet if an additional 10 feet of street yard is provided for each 5 feet by which the building or structure exceeds 45 feet in height |

SECTION 3.16 – R-1 SINGLE-FAMILY RESIDENCE DISTRICT (public sewers or shared onsite sewage disposal systems)

A. PURPOSE: To designate areas for single-family dwellings with public sewers or shared onsite sewage disposal systems

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Household pets
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 12,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.17 – R-2 SINGLE-FAMILY RESIDENCE DISTRICT (private onsite sewage disposal)

A. PURPOSE: To designate areas for single family dwellings on land without public sewers

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Household pets
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 30,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.18 – R-3 TWO-FAMILY RESIDENCE DISTRICT

A. PURPOSE: To designate areas for two-family dwellings on land without public sewers

B. PERMITTED USES:

1. Single-family residences
2. Two-family residences
3. Accessory buildings
4. Home occupations as defined in Section 3.30
5. Household pets
6. Utilities, minor
7. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 16,000 square feet (sewered),
40,000 square feet (unsewered) |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet (sewered); 100 feet (unsewered) |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.19 – R-4 MULTI-FAMILY RESIDENCE DISTRICT

A. PURPOSE: To provide areas for conventional multiple-family dwelling projects adjacent to population centers and for Planned Unit Developments

B. PERMITTED USES:

1. Three-family residences
2. Four-family residences
3. Accessory buildings
4. Home occupations as defined in Section 3.30
5. Household pets
6. Utilities, minor
7. Solar energy systems, small-scale (12/07/21)

CONDITIONAL USES: See Section 3.40 for Planned Unit Developments

1. Community centers
2. Libraries
3. Museums
4. Parks
5. Playgrounds
6. Public safety facilities (fire station, police station, emergency shelter, etc.)
7. Religious institutions, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line
8. Schools (JK-12), provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any residential district lot line

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 6,000 square feet per habitation (sewered),
15,000 square feet per habitation (unsewered);
Must be adequate to accommodate 2 parking spaces
per habitation |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 66 feet (sewered); 100 feet (unsewered) |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 45 feet from the highest grade |

SECTION 3.20 – R-R SINGLE-FAMILY RURAL RESIDENTIAL DISTRICT

A. PURPOSE: To provide a conforming district in rural, agricultural areas for existing residential lots that are smaller than the minimum 3 acres required for A-2.

B. PERMITTED USES:

1. Single-family residences
2. Accessory buildings
3. Home occupations as defined in Section 3.30
4. Animals that are permitted in A-1
5. Utilities, minor
6. Solar energy systems, small-scale (12/07/21)

C. CONDITIONAL USES:

1. Solar energy systems, mid-scale (12/07/21)
2. Two-family residences

D. CONDITIONAL USE REQUIREMENTS AND GUIDELINES: See Chapter 5.0

E. DEVELOPMENT OF R-R LOTS

No new R-R lots may be created. Only one residential building is allowed on an R-R lot. No new lots may be created out of an existing R-R lot.

F. AREA – SETBACKS – ROAD FRONTAGE – BUILDING HEIGHT REQUIREMENTS:

- | | |
|--------------------|---|
| 1. Lot Area | Minimum 30,000 square feet |
| 2. Setbacks | Side yards and rear yard: 15 feet minimum
Street yard: minimum 40 feet from road right-of-way line |
| 3. Lot Width | Minimum 100 feet |
| 4. Road Frontage | Minimum 66 feet; 40 feet for cul-de-sacs |
| 5. Building Height | Maximum 35 feet from the highest grade |

SECTION 3.30 – HOME OCCUPATIONS

A. PURPOSE

The Town recognizes the need for some citizens to use their residence for limited business use. However, the Town believes it is important to protect the integrity of neighborhoods. Therefore, the purpose of this section is to allow a limited business use only to an extent that the business use does not adversely affect the appearance, character, value, or condition of the surrounding neighborhood.

B. STANDARDS

Apart from the exception noted in sub. (1), a home occupation shall be a permitted use in any dwelling unit, provided it meets all of the standards applicable to the district in which it is located and the standards listed in this subsection. No home occupation shall hereafter be established, altered, or enlarged unless it complies with the following:

1. Not more than four persons, other than a resident of the dwelling unit, shall be employed on the premises in the A-1, A-2 or A-1-PR Districts. More than four persons may be employed on the premises in other districts if so authorized by the Town Board through the granting of a conditional use permit.
2. Any home occupation activities conducted outdoors shall not be of such a type or extent as to cause a nuisance.
3. No alteration of the principal building or accessory building shall be made which changes the character thereof.
4. No extensive mechanical or electrical equipment other than normal domestic or household equipment shall be used.
5. The home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors, heat, lighting, or any other nuisance.
6. The outside storage of products, equipment, or materials used in the home occupation shall not be of such a type or extent as to cause a nuisance.
7. No signs shall be permitted other than those permitted by the applicable regulations in Section 10.1 SIGN REGULATIONS.
8. Traffic and parking generated by the home occupation shall not create a traffic hazard, traffic nuisance, disturbance of the character of the neighborhood.

SECTION 3.40 – PLANNED UNIT DEVELOPMENTS (PUD)

Residential or Commercial Planned Unit Developments may be permitted in R-4 and B-1 Districts as a conditional use after review and recommendation of the Plan Commission and approval by the Town Board.

A. Waive District Standards

The District standards and requirements may be modified by the Town Board upon recommendation of the Plan Commission in the case of a plan and program for a Planned Unit Development, which in the judgment of the Town provides adequate public spaces and improvements for circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also assures conformity with the purpose of the zoning regulations of the Town.

B. Planned Unit Development Approval Process

The PUD shall be a conditional use, and will follow the conditional use application and approval process. The application shall also include a Developer's Agreement.

C. Standards

In addition to any standards imposed by the Town Board from the list of development guidelines in Section 5.04 or site plan standards in Section 5.05 the following standards shall apply:

1. Spacing and Orientation of Building Groups
Exterior walls of neighboring buildings in some cases may be permitted to be attached. Where opposite walls do not touch, their distances must permit adequate space for light and air and do not compromise the health, safety and welfare of the occupants.
2. Emergency Access, as well as adequate fire protection infrastructure, in particular a dependable water source
A building group shall not be so arranged that any permanently or temporarily occupied building is inaccessible to emergency vehicles.
3. Circulation
There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space. There shall be an adequate amount, in a suitable location, of pedestrian walks and landscaped spaces, to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks and public transportation loading places from general vehicular circulation facilities.
4. Density
In the R-4 District, density may be increased over the underlying District standards.

SECTION 3.50 – ADULT-ORIENTED ENTERTAINMENT BUSINESSES

A. PURPOSE: All Adult-Oriented Entertainment Businesses shall be conditional uses and shall conform to the standards in this Section, as well as any additional standards listed in Chapter 5.0 that may be required in individual cases by the Town Board. It is not the intent of the Town of Sherman to impose limitations on the First Amendment rights of any person. The purpose of this Section is to enact reasonable controls through zoning regulations on certain adult-oriented entertainment uses that have a potential for causing detrimental effects to property values and the Town's rural character.

B. DEFINITIONS

1. *Adult Oriented Entertainment Business.* A business that emphasizes matters depicting, describing, or relating to nudity, sexual contact, sexual excitement, or sadomasochistic abuse as defined herein, including but not limited to businesses commonly known as: adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult steam room/bathhouse facility, gentlemen's club, or strip club.
2. *Nudity.* The showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, vulva, anus, or female breast.
3. *Sexual Conduct.* Acts of masturbation, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.
4. *Sexual Excitement.* The condition of human male or female genitals when in a state of sexual stimulation or arousal.
5. *Sadomasochistic Abuse.* The getting of sexual pleasure from dominating, mistreating, or hurting one's partner; the getting of pleasure from inflicting physical or psychological pain on another or others; the getting of sexual pleasure from being dominated, mistreated, or hurt physically or otherwise by one's partner; or the getting of pleasure from suffering physical or psychological pain, inflicted by others or by oneself.

C. APPLICABILITY: This Section shall apply to all existing and future adult-entertainment oriented businesses. However, any such existing business that does not meet the zoning district restrictions, the distance limitations, or any other minimum standard set forth herein, may continue its existence as a non-conforming use; provided, however, that no such business may be enlarged or increased in size. Any such business that is discontinued for a period of more than 180 days shall lose its status as an existing non-conforming use and must be brought into compliance with the standards of this ordinance before said use may be reestablished.

D. LOCATION RESTRICTIONS: Adult-oriented entertainment business as defined under this Section shall be:

1. Located in the B-1, M-1, or M-2 Zoning Districts, and at a distance of at least 500 feet from the boundary of any Residentially Zoned (R) District or any Recreational Park / Institutional (P) District of the Town of Sherman or similar districts of adjacent municipalities.
2. Located at least 1,000 feet away from a church or other place of worship, public park, recreational site open to the public, licensed day-care facility, public library, public or private educational facility that serve persons age 17 or younger, elementary school, middle school, high school, or long term care/residential health care facility including licensed nursing homes, assisted living facilities, and community-based residential facilities; and at least 500 feet from an existing private residence.

E. SIGN LIMITATIONS: Adult-oriented entertainment businesses shall comply with the requirements of this subsection in addition to the requirements of any other provision of Town of Sherman ordinances regulating signs. An adult-oriented entertainment business shall not be permitted more than one sign advertising its business, and this sign shall be an on-premise or building sign only. All such signs shall meet the following criteria:

1. The business shall have no merchandise or pictures of the products or entertainment on the premises displayed in window areas or any area where they can be viewed from an adjacent roadway, sidewalk, trail, or other public area.
2. No sign shall be placed in any window. A one-square-foot sign shall be placed on the door to state hours of operation and "Admittance to Adults Only".
3. No sign shall contain any flashing lights, moving elements, or mechanically changing messages.
4. No sign shall contain any depiction of the human form or any part thereof, nor shall it contain sexually explicit or sexually suggestive language such as "Nude Dancing", "Adult Toys", "XXX fun", "Girls, Girls, Girls", or the like.
5. No such business may have any off-premise in the Town.
6. If such a business is in legal operation within the Town prior to the date of enactment of this ordinance and has a sign or sign in place for which permits were issued by the Town, such businesses shall bring its signage into conformity with the provisions of this paragraph within one year from the date of enactment of this ordinance.

F. OPERATING STANDARDS: All such adult-oriented entertainment businesses shall operate in accordance with the following standards:

1. No employee shall solicit business outside the building in which the business is located.
2. No public nudity is allowed on the premises.

3. No person on the premises shall engage in or simulate an act of sadomasochistic abuse, or any form of explicit or suggestive sexual conduct including but not limited to fondling their genitals or the genitals of another.
4. No person on the premises including a customer, employee of the business, or independent contractor engaged by the business may be nude while being in direct, personal contact with another person, regardless of whether the other person is fully or partially clothed.

G. EXTERIOR APPEARANCE: The exterior of all buildings on the premises of an adult-oriented entertainment business shall meet the following minimum criteria, together with any additional requirements established by the Town Board:

1. All colors shall be earth or neutral tones with primary accent colors to be within the same color family.
2. Stripes, geometric patterns, murals, and graffiti of any type, whether intentionally permitted by the owner or otherwise, are prohibited.
3. Detailed plans prepared by a registered architect shall be submitted to the Town Board for review and approval, and shall include samples of materials to be utilized, color chips or samples, and the detailed design scheme with elevations, rendered in true color. The Town Board may vary the specific requirements of this paragraph after review of the architectural plans in order to harmonize the building's design with a unique recognized architectural style or with other improvements in the nearby area.
4. The exterior shall be adequately maintained in good condition at all times.

H. LIMITED TERM OF CONDITIONAL USE PERMIT: The Town Board may limit the term of a conditional use permit for an adult-oriented business establishment and require periodic application for renewal of the permit, provided that the initial term and each renewal term shall be not less than one year. The Town Board may impose additional requirements for renewal of a conditional use permit whenever the Board concludes there is a rational basis to do so and finds that the additional requirements are in the public interest.

I. INSPECTION

1. An applicant or permittee shall allow representatives of the Sheriff's Department, County Health Department, Town Fire Department, Town Board, or the Town Building Inspector to inspect the premises of an existing or proposed adult-oriented entertainment business during reasonable hours to make those inspections deemed necessary to ensure compliance with this Ordinance.
2. Any owner or operator of an adult-oriented entertainment business who refuses to allow an inspection under Sub. 1 commits a violation of this ordinance. Each day that such violation continues will be considered a separate and distinct violation subject to the penalties described in Section 2.06 of this ordinance.

CHAPTER 4.0 (Blank)

CHAPTER 5.0 CONDITIONAL USE PERMITS

SECTION 5.01 – PURPOSE

Conditional uses and their accessory uses are considered as special uses requiring review and recommendation by the Town Plan Commission, and a public hearing and final approval by the Town Board. The purpose of this Section is to provide regulations that govern the procedure and requirements for the review, and approval or denial, of proposed conditional uses.

SECTION 5.02 – CONDITIONAL USE PERMIT REQUIRED

Conditional uses are those listed in Chapter 3.0 – Zoning Districts of this ordinance. No such uses shall be commenced without meeting the standards of Chapter 5.0 of this ordinance and any other applicable standards listed elsewhere in this ordinance, other Town of Sherman ordinances, Sheboygan County ordinances, and Wisconsin state regulations.

SECTION 5.03 – APPLICATION SUBMITTAL

- A. An application for a conditional use permit shall be made on forms provided by the Town Clerk. All materials, parts, and attachments submitted as part of the application shall be submitted in a form that is clearly reproducible with a photocopier. The application shall contain or have attached thereto the following information:
1. Name, address, and telephone number of the applicant.
 2. Name of the owner of the property for which the conditional use is proposed.
 3. Names of architect, professional engineer, and/or contractor, if applicable.
 4. The names and addresses of the owners of all opposite and abutting lands as they appear on the current records of the Sheboygan County Register of Deeds or Town of Sherman tax records.
 5. Legal description, and, if available, address for the property for which the conditional use is proposed.
 6. A written description of the proposed conditional use, including type of structure and number of employees if applicable.
 7. A plat of survey or map of similar accuracy for the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property. The location map shall clearly indicate the current zoning of the subject property and adjacent properties, and show any other jurisdiction(s) that has control over the property.
 8. Copies of any other permits required and issued for said site.

9. Elevation drawing, if the conditional use requires the alteration of an existing structure; or if building a new structure, submit proposed structural plans.
10. Written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in this ordinance.
11. An estimate of the length of time that the conditional use will operate on this site.
12. Any additional information that may be subsequently required by the Plan Commission or Town Board, including but not limited to the Development Guidelines listed in Section 5.4 and the Site Plan items listed in Section 5.5, shall be obtained by the applicant and attached to the application.
13. Costs of any legal, engineering or other professional fees incurred by the Town regarding a Conditional Use Application should be paid to the Town by the applicant before issuance of the Conditional Use Permit. A decision by the Town Board to decline to issue a Conditional Use Permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection.

B. Fee

The applicant shall be responsible to present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman's "Schedule of Fees" to cover meeting costs and costs of the hearing notice.

SECTION 5.04 – DEVELOPMENT GUIDELINES

- A. The development guidelines listed in this Section shall be considered by the Plan Commission and Town Board when reviewing proposed conditional uses in all zoning districts, and one or more guidelines may, at the discretion of the Town Board, be applied as binding standards to any conditional use permit in order to maintain the vision, purpose, and intent of this ordinance and the Town's 20-Year Comprehensive Plan. Further, this list does not limit the Town if it finds it necessary to attach additional conditions to a permit beyond those listed.
- B. All plans from permit applicants in response to the development guidelines made binding by the Town shall be in writing and shall be attached as an addendum to the conditional use permit application.
- C. Guidelines
 1. Access – All roads, drives, and walkways shall be maintained in a durable and dustless condition.
 2. Parking – Adequate off-street parking shall be provided and maintained in a durable and dustless condition.

3. Loading – In order to avoid undue interference with the public use of roadways, adequate off-street space shall be provided for standing, loading, and unloading vehicles.
4. Lighting – Any lighting used to illuminate any portion of the site shall be so arranged as to avoid reflecting light toward abutting properties (e.g., cut-off lighting). Portable lighting shall be used only as necessary to illuminate temporary work areas.
5. Fencing or Screening – Fencing or screening shall be by a) a fence or wall of acceptable design, b) compact, evergreen vegetative screening, or c) a grass-covered berm. Any fence, wall, vegetative screening, or berm shall be maintained in good condition.
6. Buffering – The Street, side, or rear yard setback(s) shall be sufficient to buffer more intensive land uses from less intensive land uses. If necessary to prevent undue conflict between uses, the standard setback distance prescribed in this ordinance for a particular use may be increased, unless state or county setbacks take precedence.
7. Noise, vibrations, soot, smoke, odor – Measures shall be put in place to limit and control these and similar impacts associated with certain industrial uses.
8. Other – No use shall emit an obnoxious, dangerous degree of heat, glare, radiation, or fumes beyond any boundary line of the lot on which the use is located.
9. Stormwater – Grading/drainage plans shall be designed to ensure post-development stormwater volumes and flow rates to abutting properties, including public road right-of-ways, are the same or less than pre-development.
10. Groundwater and surface water – No use shall adversely impact the quality or quantity of groundwater or surface water. A hydrologic study and ongoing well testing may be required, as well as adherence to the standards set forth for the M-3 District in sub. 3.13 (D).

SECTION 5.05 – SITE PLAN

- A. For conditional use permit requests, the Town Plan Commission or Town Board may require the submittal of 10 copies of a site plan to assist in implementing any of the development guidelines listed in Section 5.4. The site plan must conform to the standards listed below and shall be submitted to the Town Plan Commission and Town Board for review. Both the Plan Commission and Town Board shall have the authority to require revisions to the site plan and/or to waive one or more items if any item is deemed to be not applicable. No conditional use permit shall be issued unless said site plan has been approved by the Town Board.
 1. Name of property owner and/or business
 2. Address, lot number, or legal description
 3. North arrow and drawing at a scale of not less than 1" = 100'
 4. Date, stamp and original signature of a professional land surveyor or licensed engineer/architect

5. Property boundary lines and dimensions
6. Location, size, height, and foundation elevations of any building or structure to be erected or altered, the exterior building materials, and the intended use of the property
7. Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation
8. Operational considerations relating to potential nuisance creation pertaining to exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. (The Town shall notify the applicable fire department(s) of any concerns.)
9. Any possible future expansion and related implications
10. Location and dimensions of all existing and planned improvements (accessory structures, walkways, patios, driveways, etc.)
11. Location, dimensions, and content of all outdoor storage areas
12. Dimensions from property lines showing minimum Street, side(s) and rear yards
13. Distances to improvements of abutting properties, including public and private roads
14. Elevations for the adjoining properties, finish grading (direction arrows)
15. Topography (two-foot contour interval)
16. Location of existing woodlands, wetlands, floodplain, waterways;
17. All easements, labeled and dimensioned
18. All utilities and connections, including sump pump, where applicable
19. Parking plan
20. Lighting types, illumination power, and locations
21. Landscaping plan that includes individual plant locations, species, and size; location and description of fencing, walls, and berms
22. Erosion control plan
23. Signage dimensions and location(s)
24. Trash receptacle location(s) and screening
25. Any other information deemed necessary by the Town for the protection of public health and safety

SECTION 5.06 – REVIEW OF APPLICATION

A. Review

1. Applicants have the burden of proof of showing they meet the standards set forth in this ordinance.

2. Within 45 days of the submittal of a complete conditional use application, the Town Plan Commission shall review said application and make a recommendation to the Town Board, which shall hold a public hearing duly noticed with a Class 1 notice at least 7 days prior to the hearing. The Town Board shall then consider whether the proposed conditional use is in accordance with the regulations of the applicable zoning district and is consistent with “Section 1.2 – Purpose” and “Section 1.3 – Intent” of this ordinance and, within 45 days of the public hearing, make a determination to approve or deny the issuance of a conditional use permit.

B. Approval

1. If the application is approved by the Town Board, the applicant shall record, if directed by the Town Board, an affidavit in the County Register of Deeds Office with the property deed. The affidavit shall list the conditions set forth by the Town Board.
2. Conditional use permits “run with the property” and thus all subsequent owners are entitled to the same use, subject to the original permit conditions. The Town Board may, however, issue permits with time limits for uses that are temporary in nature.
3. The Town Board may attach conditions requiring periodic compliance reporting or that new owners of the property meet with the Town Clerk to discuss permit conditions.

SECTION 5.07 – COMPLIANCE

A. Inspection of subject premises or use:

Upon reasonable notice and at any reasonable time, all conditional use permits are subject to review by Town officials and staff to determine whether the subject property or use is in accord with the terms of the conditional use permit.

B. Revocation. Grounds for revocation of a conditional use permit shall include:

1. The permittee fails to comply with the requirements of Chapter 5.0 of this ordinance.
2. The permittee fails to comply with the conditions imposed by the permit.
3. A change in character of the property governed by the conditional use itself has caused such use to be no longer compatible with surrounding uses.
4. The permittee is adjudged in violation of a rule, regulation and/or decision promulgated by a state or federal agency with jurisdictional oversight, or a court of competent jurisdiction, and has not cured the deficiency within the time period designated by the agency or court, or if no time period was designated, within a reasonable time.

C. Revocation process:

1. The permittee shall be notified by certified mail of noncompliance and warning of intent to revoke upon direction of the Town Board.
2. The permittee shall have 30 days after receipt of the noncompliance notice to either correct the deficiencies or to file a written request with the Town Clerk for a hearing.

3. If a written request for a hearing is received within 30 days, the Town Board shall schedule a due process hearing and shall provide at least 7 days advance notice to the permittee. The Town Board shall consider all relevant evidence at the due process hearing. The Town Board may decide to revoke the permit, to suspend the permit with or without conditions, or to dismiss the matter, as it deems appropriate under the circumstances. If the Town Board revokes or suspends the permit, or imposes any other penalty, it shall prepare a written decision incorporating its findings of fact and reasoning.
4. If no request for hearing has been received and compliance is not obtained within 30 days after receipt of the noncompliance notice, the Town Board may summarily revoke or suspend the permit with or without conditions, as it deems appropriate under the circumstances.

SECTION 5.08 – MODIFICATION OF A CONDITIONAL USE PERMIT

If any holder of a conditional use permit wishes to modify the terms of said permit, the holder shall apply for such modification through the application procedure for conditional use permits described in Chapter 5.0 of this ordinance.

CHAPTER 6.0 NONCONFORMING USES – STRUCTURES – LOTS

SECTION 6.01 – NONCONFORMING USES

- A. The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of this ordinance may not be prohibited although the use does not conform with the provisions of this ordinance.
 - 1. The nonconforming use may not be extended.
 - 2. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture, unless permanently changed to a conforming use.
 - 3. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to this ordinance.

SECTION 6.02 – REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES

- A. In this paragraph:
 - 1. “Development regulations” means the part of a zoning ordinance enacted under this subsection that applies to elements including setback, height, lot coverage, and side yard.
 - 2. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.
- B. An ordinance enacted under this subsection may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 6.03 – RESTORATION OF CERTAIN NONCONFORMING STRUCTURES

- A. Restrictions that are applicable to damaged or destroyed nonconforming structures and that are contained in an ordinance enacted under this subsection may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to sub. (2), location, and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of repair, reconstruction, or improvements if all of the following apply:
 - 1. The nonconforming structure was damaged or destroyed on or after March 2, 2006.
 - 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

- B. An ordinance enacted under this subsection to which sub. (1) applies shall allow for the size of a structure to 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.

SECTION 6.04 – CHANGES AND SUBSTITUTIONS

- A. Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure.
- B. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.

SECTION 6.05 – EXISTING VACANT NONCONFORMING LOTS

- A. In any residential district, a one-family detached dwelling and its accessory structure may be erected on any previously legal lot or a parcel of record in the County Register of Deeds Office existing before the effective date of this ordinance (Feb. 16, 1978).
- B. Such vacant lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:
 - 1. Lot Width: minimum 66 feet (public or acceptable off-site sewerage); 100 feet (on-site private sewage disposal system)
 - 2. Lot Area: minimum 12,000 square feet (public or acceptable off-site sewerage); 30,000 square feet (on-site private sewage disposal system)
- C. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated in sub. (B) (1) and (2) of this Section will only be allowed if a variance is granted by the Board of Appeals.

CHAPTER 7.0 BOARD of APPEALS

SECTION 7.01 – ESTABLISHMENT

There is hereby established a Board of Appeals for the Town of Sherman for the purpose of this Zoning Ordinance.

SECTION 7.02 – MEMBERSHIP

- A. The Board of Appeals shall consist of five members appointed by the Town Chairman and confirmed by the Town Board. Membership shall consist of Town of Sherman residents who possess effective decision-making skills; the ability to remain open-minded and impartial; an ongoing commitment to continuing education, familiarity with zoning, land use concepts, and the role of the Board; and long-term dedication to the position.
 - 1. None of the members of the Board of Appeals may also be members of the Plan Commission or Town Board.
 - 2. Up to two alternate members may be appointed by the Town Chairman and confirmed by the Town Board for a term of three years and shall act only when a regular member is absent or refuses to vote due to a conflict of interest.
 - 3. Official Oaths shall be taken by all members in accordance with Section 19.01, Wis. Stats., within 10 days of receiving notice of their appointment.
 - 4. Terms shall be for staggered three-year periods, all terms to end on the last day of the final month of the term.
 - 5. Chairman of the Board of Appeals shall be designated by the Town Chairman.
 - 6. The Secretary, who need not be a resident of the Town of Sherman, shall be appointed by the Town Board Chairman for a three-year term.
- B. Quorum: At least four members or alternates must be present to conduct a meeting of the Board of Appeals.
- C. Compensation: Every two years, at the first Town Board meeting following the April election, the Town Board shall establish the compensation paid to members and alternate members of the Board of Appeals to defray expenses related to service on the Board. Members and alternate members shall receive one lump sum payment at the end of the calendar year for all meetings attended.
- D. The Building Inspector and Town Attorney shall attend meetings when requested by the Town Board or Board of Appeals in order to provide technical assistance.
- E. Vacancies shall be filled for the remainder of the unexpired term in the same manner as appointments for a full term, as soon as practicable.

- F. Removal: If necessary, a member of the Board of Appeals may be removed from his/her position by a majority vote of the Town Board, but only for cause after written charges and an opportunity for a public hearing.
- G. The Office of the Board of Appeals shall be the Town Clerk's Office.

SECTION 7.03 – ORGANIZATION

- A. The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this ordinance.
- B. Meetings shall be held at the call of the Chairman of the Board of Appeals and shall be open to the public.
- C. The concurring vote of four members of the Board shall be necessary to correct an error, reverse any order, requirement, decision or determination of any administrative official, grant a variance, make an interpretation and permit a utility, temporary, unclassified, or substituted use. If the concurring vote of four is not met, the application is considered denied.
- D. Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Town Clerk and shall be a public record.

SECTION 7.04 – POWERS

The Board of Appeals shall have the following powers:

- A. **Errors** – To hear and decide administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by any Town official.
- B. **Variances** – To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. The spirit and purposes of this ordinance shall be observed and the public safety, welfare, and justice secured.
- C. **Interpretations** – To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts, after the Town Plan Commission and the Town Board have made a review and recommendations.
- D. **Substitutions** – To hear and grant applications for substitutions of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Town Plan Commission has made a review and recommendation. Whenever the Board of Appeals permits such a substitution, the use may not thereafter be changed without application.

- E. **Unclassified Uses** – To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Town Plan Commission has made a review and recommendation.
- F. **Temporary Uses** – To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and the Town Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this ordinance shall be required.
- G. **Permits** – The Board of Appeals may reverse, affirm wholly or partly, or modify the requirements appealed from, and may issue or direct the issuance of a permit.
- H. **Assistance** – The Board of Appeals may request assistance from other Town officers, departments, commissions and boards.
- I. **Oaths** – The Chairman of the Board of Appeals may administer oaths and compel the attendance of witnesses.

SECTION 7.05 – ADMINISTRATIVE APPEALS

- A. Appeals of the enforcement of this ordinance may be made by any person aggrieved or by any official, department, board, or commission of the Town.
- B. Such appeals shall be filed with the Secretary of the Board of Appeals within 45 days after the date of the decision or action precipitating the appeal.

SECTION 7.06 – APPLICATIONS FOR VARIANCES

- A. An application may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary of the Board of Appeals.
- B. Such an application shall include the following:
 - 1. Name and address of the applicant and all abutting and opposite property owners of record.
 - 2. Plat of survey prepared by a professional land surveyor registered in the State of Wisconsin or other map drawn to scale, showing all information required for a permit.
 - 3. Additional information as required by the Chairman of the Board of Appeals.

SECTION 7.07 – HEARINGS

- A. The Board of Appeals shall fix a reasonable time and place for the hearing and provide a Class 1 notice at least seven days prior to the meeting. Notice shall also be given to the Town Board, the Plan Commission, the appellant or applicant, and the administrative

officer(s) appealed from by regular mail or by personal service. In every case involving a variance, notice shall also be mailed to the fee owners of record of all land within 300 feet of any part of the subject property involved in the appeal.

- B. At the hearing the appellant or applicant may appear in person, by agent, or by attorney. The appellant or applicant shall be responsible to present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman's "Schedule of Fees" to cover the meeting costs and costs of the hearing notice. An appellant who is successful in his/her appeal is entitled to a full refund of the meeting/hearing fee.
- C. Rehearings: A rehearing shall be held only with the affirmative vote of three or more members of the Board of Appeals upon finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.
 - 1. Requests for rehearing shall be in writing and shall recite the reasons for the request and be accompanied by necessary data and diagrams.
 - 2. Requests for rehearings shall be considered not more than once every six months and shall be subject to the same requirements of notice as original hearings.

SECTION 7.08 – STANDARDS FOR APPROVING VARIANCES

- A. Variances to the provisions of this ordinance shall only be granted by the Board of Appeals when it finds beyond a reasonable doubt that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

- 1. **Unnecessary Hardship**

To qualify for a variance, the Board must find that strict application of the code dimensional standards will result in an unnecessary hardship. Wisconsin case law states that unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. To determine whether this standard is met, the Board will consider the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting a variance.

The Board will balance public interests in preserving the objectives of the code and private interests in a property in determining which uses are reasonable and whether the code requirements result in an unnecessarily burdensome situation.

An applicant may not claim hardship because of conditions that are self-imposed or created by a prior owner (for example, constructing a deck or shed within setback lines without a permit and then arguing there would be a financial hardship if ordered to remove it.) Courts have also found that decks and similar minor accessory structures are not essential to the reasonable use of a property and are not eligible for variances. The board will ask the applicant to explain what hardship will exist if the variance is not granted.

2. **Hardship Due to Unique Physical Limitations of the Property**

To qualify for a variance, the hardship must be due to a unique physical limitation of the property that is not generally shared with other properties. Examples include steep slopes, wetlands, and ravines. The personal circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby code violations, prior variances, or lack of objections from the neighbors do not provide a basis for granting a variance. Minor property limitations that prevent code compliance and are common to a number of properties should be addressed by a code amendment and not a variance.

The Board will ask the applicant to explain what conditions are unique to this property rather than considerations personal to the property owner that result in an unnecessary hardship and that would suggest the variance should be granted.

3. **No harm to public interest**

A variance may not be granted that results in harm to public interests. In applying this test, the Board will consider the impacts of a proposal and the cumulative impacts of similar projects on the interests of the entire community. Some of these interests are listed in Sections 1.2 and 1.3 of this ordinance.

The Board will ask the applicant to comment on how they believe the interests of the public or neighbors will be affected by granting or denying the variance request.

- B. A *use variance* shall not be granted if it would have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district, unless the property owner conclusively proves there will be no reasonable use of the property remaining without a variance.
- C. An *area variance* shall only be granted if compliance with this ordinance would unreasonably prevent a property owner from using a property for a permitted purpose or would render conformity with such regulations unnecessarily burdensome.
- D. The prospect of economic gain or loss resulting from the enforcement or administration of this ordinance shall not be a sufficient cause to grant a variance.

SECTION 7.09 – DECISION

- A. The Board of Appeals shall decide all appeals and applications within 45 days after the final hearing and shall, within 30 days of the final decision, transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, the Town Board, and the Town Plan Commission, and file the decision in the Office of the Board of Appeals.
- B. The Board of Appeals may impose such conditions, safeguards, and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set forth in this ordinance to reduce or minimize any potentially injurious effect of such

variance upon other property in the neighborhood and to carry out the purpose and intent of this ordinance.

- C. Variances, substitutions, or permits granted by the Board of Appeals shall expire within one year unless substantial work has commenced pursuant to such grant, or unless an extension is expressly granted by the Board of Appeals at the applicant's request in advance of the expiration.

SECTION 7.10 – REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition, duly verified, setting forth that such decision is illegal and specify the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

CHAPTER 8.0 PLAN COMMISSION

SECTION 8.01 – PURPOSE

Pursuant to Section 60.22 (3), 61.35, and 62.23 of the Wisconsin Statutes, there is hereby created a Plan Commission for the Town of Sherman, with the powers, duties, and qualifications set forth in this Ordinance and in Section 62.23, Wis. Stats.

SECTION 8.02 – MEMBERSHIP

- A. **Terms:** The Plan Commission shall consist of five members, including a presiding officer, recommended by the Town Chairman and confirmed by the Town Board. The Town Board Chairman may appoint him or herself to the commission and may appoint other Town elected or appointed officials, except that the commission shall always have at least three citizen members who are not Town Officials. Citizen members shall be persons of recognized experience and qualifications, and shall be a resident and/or property owner of the Town of Sherman. Except for the initial one-year and two-year terms of some members to ensure staggered terms, the members of the commission shall be appointed to hold office for a period of three years, all terms to end on the last day of April.
- B. **Alternate Members:** Up to two alternate members may be recommended by the Town Chairman and confirmed by the Town Board for a term of three years and shall act only when a regular member is absent or abstains from voting due to a conflict of interest.
- C. **Compensation:** Every two years, at the first Town Board meeting following the April election, the Town Board shall establish the compensation to be paid to members and alternate members of the Plan Commission to defray expenses related to service on the Commission. Members and alternate members shall receive one lump sum payment at the end of the calendar year for all meetings attended.
- D. **Quorum:** Three members and/or alternates shall constitute a quorum.
- E. **Vacancies** shall be filled for the remainder of unexpired terms in the same manner as appointments for a full term, as soon as practicable.
- F. **Removal:** If necessary, a member of the Plan Commission may be removed from his/her position by a majority vote of the Town Board, but only for cause after written charges and an opportunity for a public hearing.
- G. **Technical Assistance:** The Building Inspector and Town Attorney shall attend meetings when requested by the Town Board or Plan Commission in order to provide technical assistance.

SECTION 8.03 – DUTIES

The Plan Commission's duties shall include, but are not limited to:

- A. **Planning:** The Plan Commission shall have the duties of making reports and recommendations to the Town Board regarding the planning and land use of the Town of Sherman. In addition to the duties specified elsewhere in this ordinance, the Plan Commission is required by statute to consider the following and make a report within 30 days before final action is taken by the Town Board:
1. The location and architectural design of any public building;
 2. The location of any statue or other memorial;
 3. The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds;
 4. The location, extension, abandonment or authorization for any public entity whether publicly or privately owned;
 5. All plats of land in the Town over which the Town has platting jurisdiction under ch. 236 Wis. Stat.;
 6. The location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and
 7. The amendment or repeal of any ordinance adopted pursuant to s. 62.23(5), Wis. Stat.
- If said report is not made within 30 days, the Town Board may take action without it.
- B. **Reviewing and Recommending:** The Plan Commission shall review zoning ordinance amendments and conditional use applications. After inviting comments from the public immediately following any discussion by the petitioner or applicant during a Plan Commission meeting in which the matter appears as an agenda item, or holding a public hearing, if desired, the Plan Commission shall make a recommendation to the Town Board.

CHAPTER 9.0 CHANGES and AMENDMENTS

SECTION 9.01 – AUTHORITY

Whenever the public necessity, convenience, general welfare, or good zoning practice require, 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 Town Plan Commission and any state or county entities having authority over the substance of the change or amendment.

SECTION 9.02 – INITIATION

- A. A change to **district boundaries** may be initiated by the Town Board, Town Plan Commission, or by a petition of one or more of the owners or lessees of property, or holders of a contract to purchase property, within the area proposed to be changed.
- B. An amendment to the **text** of this ordinance may be initiated as a petition by any person.

SECTION 9.03 – PETITIONS

- A. **District Boundaries:** Petitions for any change to the district boundaries to the regulations shall be filed with the Town Clerk, describe the premises proposed to be re-zoned, list the reasons justifying the petition, specify the proposed use, and have attached the following:
 - 1. Petitioner's and/or owner's name, address, phone number, and interest in property;
 - 2. Signatures of all petitioners and owners;
 - 3. Existing and proposed zoning district;
 - 4. Proposed use (a statement of the type, extent, area, etc., of any development project);
 - 5. Owners' names and addresses of all properties lying within 500 feet of the area proposed to be rezoned;
 - 6. Compatibility with adjacent lands (a statement of land uses and impact of zoning change);
 - 7. Legal description of the property to be rezoned;
 - 8. Plot plan drawn to appropriate scale or survey plat, showing the area proposed to be re-zoned, its dimensions, the location of buildings on the property, as well as the location and classification of adjacent zoning districts, and the location and existing use of all properties and buildings within 500 feet of the area proposed to be rezoned;
 - 9. Additional information required by the Town Plan Commission or Town Board.
- B. **Ordinance Text Amendments:** Petitions for any proposed amendments to the text of this ordinance shall be filed with the Town Clerk and include the petitioner's name, address, and phone number; list the reasons justifying the petition; specify the text to be deleted and/or

added; and, if possible, provide an example of a similar regulation from another municipal zoning ordinance. Petitioners may be required to provide additional information as needed by the Town Plan Commission or Town Board.

- C. Fee:** The petitioner shall present a Fee Receipt from the Town Treasurer for the amount specified in the Town of Sherman's "Schedule of Fees" to cover meeting costs and costs of the hearing notice for changes or amendments to the zoning ordinance.

SECTION 9.04 – RECOMMENDATIONS

The Town Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied.

SECTION 9.05 – HEARINGS

The Town Board shall, after providing a Class 2 notice under Ch. 985, Wis. Stats., hold a public hearing upon each recommendation, listing the time, place, and the changes or amendments proposed. The Town Board shall also give at least 10 days prior written notice to the Clerk of any municipality within 1.5 miles of any land to be affected by the proposed change or amendment.

SECTION 9.06 – TOWN BOARD'S ACTION

Following such hearing and after careful consideration of the Town Plan Commission's recommendations, the Town Board shall vote on the proposed change or amendment.

SECTION 9.07 – PROTEST

- A. A protest against a district change or amendment to the regulations of this ordinance must be signed and acknowledged by:
1. the owners of 20 percent or more either of the areas of the land included in such proposed change, or
 2. the owners of 20 percent or more of the land immediately adjacent, extending 100 feet therefrom, or
 3. the owners of 20 percent or more of the land directly opposite thereto, extending 100 feet from the street frontage of such opposite land.
- B. In the event of a protest that meets the criteria set forth in this Section, a change or amendment can only be approved by the concurring vote of four members of the Town Board.

CHAPTER 10.0 MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

SECTION 10.01 – PURPOSE

In addition to promoting the public health, safety, and general welfare of the citizens of the Town of Sherman, the purposes of this Chapter include 1) minimizing any adverse visual effects of communication facilities, 2) allowing a non-discriminatory, competitive, and broad range of communication services consistent with the Federal Telecommunications Act of 1996, 3) achieving consistency with the mobile service support structure and facility regulations of 2013 Wisconsin Act 20, and 4) encouraging the use of co-location of new antennas primarily on existing telecommunication towers or secondarily on new towers with the capacity to locate three or more providers.

This Chapter is not intended to regulate commercial television or radio towers.

SECTION 10.02 – DEFINITIONS

Antenna – Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

Application – 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 – A permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision's building code.

Class 1 Collocation – 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 – 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 – Class 1 or Class 2 collocation or both.

Distributed Antenna System – 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 – An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

Existing Structure – 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 – The area over which a mobile support structure is designed to collapse.

Mobile Service – Has the meaning given in U.S. Code 47 USC 153 (33).

Mobile Service Facility – 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 – A person who provides mobile service.

Mobile Service Support Structure – A freestanding structure, such as a tower, that is designed to support a mobile service facility.

Permit – 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. A Class 1 collocation.
2. A Class 2 collocation.
3. The construction of a mobile service support structure.

Political Subdivision – A city, village, town, or county.

Public Utility – Has the meaning given in 196.01 (5), Wis. Stats.

Search Ring – 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, taking into account other factors including topography and the demographics of the service area.

Substantial Modification – The modification of a mobile service support structure, including the mounting of an antenna on such a 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 – 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 – A structure owned or operated by an alternative telecommunications utility, as defined in 196.01 (1d), Wis. Stats.; public utility, as defined in 196.01 (5), Wis. Stats.; telecommunications utility, as defined in 196.01 (10), Wis. Stats.; political subdivision; or cooperative association organized under ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in 182.017 (1g) (cq), Wis. Stats.; for video service, as defined in 66.0420 (2) (y), Wis. Stats.; for electricity; or to provide light.

SECTION 10.03 – NON-COMMERCIAL COMMUNICATION TOWERS AND ANTENNAS

- A. Non-commercial communication towers and antennas regulated under this Chapter are those towers that are 20 feet or more in height above the original grade and those antennas having a stand-alone size of 20 feet or MORE in any direction.
1. In order to qualify as a non-commercial communications tower, the tower:
 - a. Must be owned and operated by the property owner on whose property it is constructed;
 - b. Must be used for a personal communication purpose such as ham radio operation;
 - c. Must not be used as an income source for the owner/operator;
 - d. Must not be more than 100 feet in height above ground level.
 2. Minimum Setbacks: At least 1.5 times the tower's or antenna's height above the original grade from all road right-of-way and property lines.
 3. Permits Required
 - a. A Conditional Use Permit, as set forth in Chapter 5.0 of this ordinance, shall be required for all non-commercial communication towers and antennas as specified in sub. 10.03 (A).
 - b. Renewal of Conditional Use Permit shall be required when ownership of the property transfers.
 - c. If not renewed at expiration of conditional use agreement, the tower and/or antenna(s) shall be removed within 90 days.
 - d. A Building Permit from the Town of Sherman is required before installation of any non-commercial tower or antennae array regulated under this Chapter.

SECTION 10.04 – MOBILE SERVICE SUPPORT STRUCTURES AND FACILITIES

All proposed mobile service support structures and facilities shall comply with the provisions set forth herein. A Mobile Service Permit and a Building Permit from the Town of Sherman are required before the new construction or substantial modification may begin on any mobile service support structure or facility. Applications for a Mobile Service Permit shall be made in accordance with the following:

- A. New construction or substantial modification of facilities and support structures.
1. Subject to the provisions and limitations of this section, the Town shall regulate the following activities:
 - a. The siting and construction of a new mobile service support structure and facilities.
 - b. With regard to a Class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.
 2. The application for an activity described under sub. (1) shall be in writing and shall contain all of the following:
 - a. The name and business address of, and contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. **If the application is to substantially modify an existing support structure**, a construction plan that 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.
 - e. **If the application is to construct a new mobile service support structure**, a construction plan that describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 3. If an applicant submits an application for a permit to engage in an activity described under sub. (1), which contains all of the information required under sub. (2), the Town shall consider the application complete. If the Town does not believe the application is complete, the Town shall notify the applicant in writing, within 10 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 until it is complete.

4. Within 90 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 day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the Town's building code and, subject to the limitations in this article, the Town's 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 that supports the decision.
5. The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under sub. (2) (f).
6. A party who is aggrieved by the final decision of the Town under sub. (4) (b) may bring an action in Sheboygan County circuit court.
7. If an applicant provides the Town 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 10.04 (D) of this chapter, 10.04 (D) does not apply to such a structure unless the Town provides the applicant with substantial evidence that the engineering certification is flawed.
8. The Town may regulate the activities described under sub. (1) only as provided in this section.

B. Collocation on existing support structures.

1.
 - a. A class 2 collocation is a permitted use under 59.69, 60.61, and 62.23, Wis. Stats.
 - b. The Town may regulate a class 2 collocation only as provided in this section.
 - c. A class 2 collocation is subject to the same requirements for the issuance of a Building Permit to which any other type of commercial development or land use development is subject.
2. If an applicant submits to the Town an application for a Mobile Service Permit to engage in a class 2 collocation, the application shall contain all of the information required under sub. (A) (2) (a) to (c), in which case the Town shall consider the application complete. If any of the required information is not in the application, the Town 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 until 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 that supports the decision.
 4. A party who is aggrieved by the final decision of the Town under sub. (3) (a) may bring an action in Sheboygan County circuit court.
- C. The recipient of a Mobile Service Permit shall notify the Town Clerk within 15 days of any change in facility ownership, and shall provide contact information for said new ownership
- D. Setbacks, Fences, Signs, Security
1. All newly constructed or heightened towers shall be located at least 1.0 times the tower's height, measured from the base of the tower, from road right-of-way lines and landowner property lines unless written permission for a lesser setback is obtained from the right-of-way or land owner.
 2. An eight-foot high fence with locked gate shall be provided around the tower and related equipment.
 3. Advertising signs of any type shall not be permitted in connection with tower sites. An identification sign, measuring no more than six feet square, indicating the owner's name and a 24-hour emergency number, shall be affixed to the facility in such a way that it is visible from outside the fence.
- E. Lighting: unless required by the Federal Aviation Administration, there shall be no continuous artificial lighting attached to mobile service support structures or facilities. Security lighting shall be "cut off lighting" fixtures.

SECTION 10.05 – REMOVAL AND SITE RESTORATION

- A. The removal of mobile service support structures or facilities no longer in operation or abandoned, and site restoration shall comply with the following:
1. The recipient for a permit for a mobile service support structure or facility shall notify the Town Clerk within 90 days of the permanent cessation of operations of the structure or facility. If no notice is received for a structure or facility that has not been in

operation for a continuous period of 12 months, the structure or facility shall be considered abandoned.

2. The owner of a mobile service support structure or facility shall be responsible for the removal of the structure or facility and the restoration of the site to a condition acceptable to the Town Board within nine months following the date the Town Clerk receives notice the facility is no longer in operation. Note: Tower-based antennas that are no longer operational shall be removed; however, site restoration is not required.
 - a. Site restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five feet below the ground surface. The structure owner shall provide a signed and notarized document in recordable form to the Town of Sherman stating the existence, description, and precise location of any subsurface structure remaining.
 - b. A surety bond, letter of credit, cash, or other surety, as determined by the Town of Sherman Board, shall be provided by the applicant prior to the issuance of a permit to cover the costs of complete removal of an abandoned facility, along with landscape remediation, landscaping, and removal of any on-site hazardous materials, if necessary. The Town of Sherman shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company. The Town may require an increase in the surety amount at five-year intervals to reflect increases in the costs in the aforementioned removal, remediation, and landscaping expenses. The amount of the increased surety shall be determined by the Town Board consistent with actual anticipated costs as provided by appropriate experts. The applicant shall provide any increase in surety within 60 days after the Town's request. In no case shall the bond, letter of credit, cash, or surety exceed \$20,000.
3. Any cost not covered by the surety bond furnished shall be provided by the existing landowner or become a lien on the real estate.

SECTION 10.06 – INTERFERENCE

Neither mobile service support structures or facilities nor non-commercial communication towers or antennas shall interfere with or obstruct public safety communication devices or the private television, radio, or communication devices of businesses or residences. Any such interference or obstruction shall be corrected by the permit holder as soon as reasonably possible and at no cost to the public.

CHAPTER 11.0 PORTABLE STORAGE UNITS

SECTION 11.01 – PURPOSE

There are hereby established standards for portable storage units that will provide property owners and residents with additional options for temporary and on-site storage of materials while considering public safety and valuing the aesthetic preferences of the Town.

SECTION 11.02 – PORTABLE STORAGE UNITS ALLOWED WITHOUT A ZONING PERMIT

A. Disaster Relief Efforts

Portable storage units are allowed without a Zoning Permit in any district when brought to a site for disaster relief efforts or similar emergency situations under the oversight of a government agency or non-profit relief organization, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. Any units shall be removed within 60 days of the conclusion of the relief effort or emergency situation.

B. Construction Projects

Portable storage units are allowed without a Zoning Permit in any district when brought to a site in support of a construction, excavation, or similarly permitted project, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. No portable storage unit shall be used for human habitation.
3. Any units shall be removed within 60 days of the conclusion of the project.

C. Relocation Projects

Portable storage units are allowed without a Zoning Permit in any district when brought to a site while all or part of a household or business is relocating, subject to the following:

1. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
2. No portable storage unit shall be used for human habitation.
3. Such units are limited to 30 days total in a calendar year.

SECTION 11.03 – PORTABLE STORAGE UNITS REQUIRING A ZONING PERMIT

- A. Portable storage units are not allowed in the R-1, R-2, R-3, R-4, or A-1-PR districts, unless such a unit qualifies under Section 11.02.
- B. Subject to the requirements of this subsection, as well as any applicable district requirements, portable storage units are allowed in the A-1, A-2, A-3, B-1, C-1, M-1, M-2, M-3, M-4, P-1, P-2, and R-R districts with the issuance of a Town of Sherman Zoning Permit. No Zoning Permit is required if such a unit qualifies under Section 11.02.
 - 1. Such units shall meet all building setback requirements for the district in which they are located.
 - 2. No part of such units shall be located in the street/front yard of a parcel, unless no principal building exists on the parcel.
 - 3. No portable storage unit shall be used for human habitation, unless the unit qualifies under subsection 11.02 A.
 - 4. No portable storage unit shall be used to store hazardous materials, unless such materials are integral to the principal use of the property, or unless the unit qualifies under Section 11.02.
 - 5. Such units shall not be stacked on each other or on any other structure or building.
 - 6. The condition of such units shall not become a nuisance or safety hazard.
 - 7. Any unit that appears to have been abandoned and receives written notice from the Town ordering its removal shall be permanently removed by the owner within 30 days of receiving said notice. An owner may challenge the determination of abandonment by appealing to the Town Board within 60 days of receiving said notice. If denied, the abandoned unit shall be removed within 30 days of the Town Board's decision. Any abandoned unit not removed within the applicable time period may be removed by the Town at the owner's expense.

SECTION 11.04 – CONDITIONAL USE PERMIT OPTION

Any person who wishes to exceed a limitation or forego a certain requirement listed in this Chapter may apply to the Town for a Conditional Use Permit. Said permit may be granted if the requirements of Chapter 5.0 are met and the applicant agrees to actions that are adequate to off-set any negative repercussions of exceeding a limitation or foregoing a requirement.

SECTION 11.05 – EXISTING PORTABLE STORAGE UNITS

A portable storage unit lawfully existing at the time of the adoption or amendment of this ordinance may be continued even if such a unit does not conform to the provisions of this

chapter. However, it shall be deemed a nonconforming use or structure, and the provisions of Chapter 6.0 shall apply.

CHAPTER 12.0 SOLAR ENERGY SYSTEMS (SES) (12/07/21)

SECTION 12.01 – PURPOSE

There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.

SECTION 12.02 – TYPES OF SOLAR ENERGY SYSTEMS AND PERMITS REQUIRED

- A. Large-scale SES (100 MW or more) – Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-2, A-1-PR, and A-3 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
- B. Mid-scale SES (< 100 MW and > 30 kW) – Are subject to the conditional use permit conditions set forth in Chapter 5.0 and the requirements set forth in Section 12.03 of this ordinance, the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed in all districts except R-1, R-2, R-3, R-4, and C-1.
- C. Small-scale SES (30 kW or less) – Are considered to be accessory uses and are permitted in all districts. Such systems are allowed whether or not a principal structure exists on the parcel. A building permit from the Town is required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.

SECTION 12.03 – REQUIREMENTS FOR MID-SCALE SOLAR ENERGY SYSTEMS

- A. Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - 1. Setbacks – Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, septic field, or road right-of-way.
 - 2. Height restrictions – Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district's height limit by more than 5 feet.
 - 3. Glare – The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
 - 4. Sound – The SES project's inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW

system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.

5. Construction hours – Hours of construction shall be between 7:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
 6. Installer – All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
 7. Foundation – A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 8. Screening – A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
 9. Town roads – The construction, operation, and decommissioning of a SES shall not adversely impact town roads.
 10. Code compliance – A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
 11. Power and communication lines – Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
 12. Orderly development – Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
 13. Decommissioning – When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning.
- B. In addition to the application submittal requirements of Chapter 5.0 of this ordinance, the application for a SES conditional use permit shall include the following:
1. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.

2. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
3. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
4. Surrounding property uses.
5. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.
6. A decommissioning plan, which shall outline the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Sherman to have suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and town properties. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.

SECTION 12.04 – EXISTING SOLAR ENERGY SYSTEMS

A solar energy system lawfully existing at the time of the adoption or amendment of this ordinance may be continued even if such a system does not conform to the provisions of this chapter. However, it shall be deemed a nonconforming use or structure, and the provisions of Chapter 6.0 shall apply.

CHAPTER 15.0 DEFINITIONS

For the purpose of this ordinance, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory; the word “should” is advisory; and the word “may” is permissive. Any words not defined in this ordinance shall be presumed to have their customary dictionary definitions.

Accessory Use or Structure – A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure. Such uses include but are not limited to garages, sheds, decks, and gazebos. Accessory structures are deemed taxable structures and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. Temporary accessory uses, such as structures consisting of tubular frames and fabric outer skin, camping tents, or shelters for materials and equipment being used in the construction of a permanent structure, do not require a permit.

Acreage - (Minimum Contiguous Acreage) for ordinance purposes defined as not being divided by a public road.

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

Apiculture – The raising and care of bees for commercial or agricultural purposes.

Aquaculture – The active cultivation (maintenance or production) of marine and freshwater aquatic organisms (plants and animals) under controlled conditions.

Arterial Street – A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as arterial streets, highways, and parkways.

Basement – That portion of any structure located partly below the average adjoining lot grade.

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, machinery, or materials.

Building Area – The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building Height – The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure, to the highest point to the highest point of flat

roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

Business – An occupation, employment, or enterprise that occupies time, attention, labor, and/or materials or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

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

Commercial Use – An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Common Ownership – Ownership of land by the same individual, married couple, joint tenants, or tenants in common. For example, a parcel owned by John Smith is considered to be in common ownership with a parcel owned by John & Mary Smith, husband and wife. A parcel owned by John Smith is *not* considered to be in common ownership with a corporation, LLC, partnership, estate, or trust in which John Smith has an interest.

Conditional Uses – Uses of a special nature as to make impractical their predetermination as a principal use in a district.

Contiguous – For ordinance purposes – Not being divided by a public road. Parcels are *not* contiguous if they meet only at a single point.

Corner Lot – A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the lot side.

Diversified Farming – The practice of producing a variety of crops or animals, or both, on one farm, as distinguished from specializing in a single commodity.

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

Dwelling – A building used all or in part as a habitation, but does not include boarding or lodging houses, motels, tents, tourist cabins, or mobile homes.

Emergency Shelter – Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare, fire, flood, windstorm, riots, and invasions.

Essential Services – Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains,

vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Expressway – A divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

Fallow Land – Land that is left unseeded after plowing or agricultural land that is currently inactive.

Family – Any number of persons related by blood, adoption, or marriage, or not to exceed three persons not so related, living together in one dwelling as a single housekeeping entity.

Farm – All contiguous land under a common ownership that is primarily devoted to agricultural use.

Farm Residence – A single-family residence that is the only residential structure on the farm or is occupied by any of the following:

- (1) An owner or operator of the farm.
- (2) A parent or child or an owner or operator of the farm.
- (3) An individual who earns more than 50% of his or her gross income from the farm.

Freeway – An expressway with full control of access and with fully grade separated intersections.

Frontage – The dimension of a lot abutting a public street measured along the right-of-way line.

Gift Stores – Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Habitation – A dwelling place wherein behavior customary to human living, such as eating and sleeping, regularly occurs.

Hazardous Materials – Any materials, products, substances, etc. that are capable of posing a significant risk to health, safety, property, or the environment when transported, used, or stored.

Hardware Stores – Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Home Occupation – Any occupation for gain or support that conforms to the standards listed in Section 3.30 (B) of this ordinance and is subordinate to the residential use.

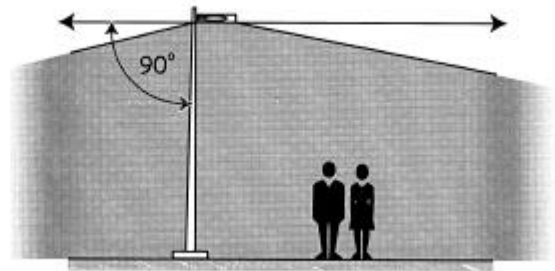
Industry, Heavy – Enterprises engaged in activities with significant external effects (e.g., soot, smoke, noise, vibration, odor, etc.), or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, corrosives, pesticides, herbicides, or other hazardous materials in the manufacturing or processing of materials.

Industry, Light – Enterprises engaged in activities such as research and development; the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials; which activities are conducted wholly within an enclosed building in such a manner as to limit the external effects of the manufacturing process (e.g., soot, smoke, noise, vibration, odor, etc.) to the industrial property. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

Interchange – A grade separated intersection with one or more turning lanes for travel between intersection legs.

Kennel – The use of land, with related buildings or structures, for the commercial breeding, rearing, boarding, training, showing, treating, or grooming of more than four dogs, cats, or other household pets.

Lighting, Cut-Off – Lighting emitted at or below a horizontal plane drawn through the bottom of a lighting fixture.



Livestock – Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ruminants, and ratites.

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

Lot – A parcel of land having frontage on a public street or other officially approved means of access, and sufficient in size to meet the lot width, frontage, area, and yard requirements of the district in which it is zoned.

Lot Lines and Area – The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Width – The average width of a lot, determined as follows: The sum of the length of the front and rear lot line divided by two. In the case of irregularly shaped lots having four or more sides, "average lot width" is the sum of the length of two lines, drawn perpendicular to one side line at the widest and narrowest portions of the lot, divided by two.

Machine Shop – Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Minor Structure – Any small, movable accessory erection or construction such as birdhouses; tool houses; pet-houses; play equipment; arbors; and walls fences under four feet in height.

Motel – A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

Nonconforming Use or Structure – Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this ordinance or amendments thereto that does not conform to the regulations of this ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Parking Lot – A structure or premises containing ten or more public parking spaces open for rent or a fee.

Parcel – A “tax parcel” as identified in the current records of the Sheboygan County Treasurer’s Office.

Parking Space – A graded and surfaced area of not less than 180 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Permitted Use – A use by right that is specifically authorized in a particular zoning district.

Pets, Household – Animals commonly found in residences as pets such as dogs, cats, song birds, and other small animals, providing that they are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, or other animals not typically living in residences.

Playground – A small area developed especially for children that typically includes such facilities as sandboxes, slides, teeters, swings, climbing apparatus, and the like.

Portable Storage Units – Land uses that include units such as shipping containers; semi-trailers and similar large transport vehicles not in road operable condition; portable on demand storage (PODS) and store and move (SAM) containers.

Principal Structure – The structure on a lot in which is conducted the principal use as permitted on such lot by the regulation of the district in which it is located. (In A-3 the principal structure is the residence, if one exists.) No lot shall have more than one principal structure unless the additional structure(s) has been allowed by the Town Board per Section 2.04 (C).

Note: Per DATCP, there are no principal structures in a farmland preservation zoning district.

Rear Yard – A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the

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

Residence – (See *Habitation*.)

Right-of-Way Line – The limit of publicly owned land or easement encompassing a roadway or alley.

Salvage Yard – A site used for the storage or sale of salvageable materials or for the purpose of salvage, wrecking, dismantling, or demolition of salvageable materials. This includes the collection and/or dismantling of automobiles or other objects for transportation, re-use, or resale.

Shipping Container – A container originally designed or used to store materials or merchandise during shipping or hauling upon ships, rail, or other types of transportation and typically eight (8) feet wide by eight (8) feet, six (6) inches high by either twenty (20) feet or forty (40) feet in length.

Shorelands – All lands, water and air located within the following distances from the normal high water elevation of navigable waters as defined in the Wisconsin Statutes: 1,000 feet from a lake, pond flowage; 300 feet from a river or stream to the landward side of the floodplain, whichever distance is greater.

Side Yard – A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and line parallel thereto through the nearest point of the principal structure.

Silviculture – The cultivation and management of forest trees. Also included, for the purposes of this ordinance, is the harvesting of forest products such as maple syrup, nuts, and berries.

Solar Energy Systems (SES) – A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)
(12/07/21)

Street Yard – A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed right-of-way line and a line parallel thereto through the nearest point of the principal structure. Also called “front yard.” Corner lots shall have two such yards.

Stable – A building for beasts to lodge and feed for personal use only, not for hire.

Street – A public right-of-way not less than 50 feet wide providing primary access to abutting properties.

Structure – Any combination of materials installed on, above, or below the ground or attached to something located on the ground and generally used at a determined location.

Structural Alteration – Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Super-Majority Vote of Approval – A vote of approval by at least four of the five members of the Town of Sherman Board of Supervisors, except in those instances when, due to conflict of interest, one or more members abstains from voting; in such instances an approving vote of at least three of the four members voting, or three of the three members voting, is required.

Tract – All contiguous land under a common ownership and within the same zoning district.

Turning Lanes – An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Utilities, Major – Facilities serving a community or regional area. Such facilities include power generating plants, electric substations, and high-tension wires; wastewater treatment plants; water towers; and stormwater ponds. This definition does not include mobile service support structures or facilities; wind energy systems; commercial television or radio antennas; or utility company offices. Such uses are allowed as conditional uses in A-1, A-2, A-3, B-1, M-1, M-2, M-3, M-4, and P-2.

Utilities, Minor – Small-scale facilities located in a right-of-way or easement and serving a neighborhood area. Such facilities include power poles, electric lines, and transformers; water lines, pump stations, and hydrants; telephone poles, lines, and pedestals; and stormwater drainage facilities. Such uses are permitted in all districts.

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