

**CODE OF GENERAL
ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY
WISCONSIN**



Prepared by
Bay-Lake Regional Planning Commission
425 South Adams Street, Suite 201
Green Bay, WI 54301
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WISCONSIN**

ADOPTED: DECEMBER 9, 2014

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**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 1: GENERAL PROVISIONS

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CHAPTER 1: GENERAL PROVISIONS

1.0100 CONSTRUCTION AND EFFECT OF ORDINANCES

1.0200 AUTHORITY

This code of general ordinances is adopted under the authority granted by Section 66.0103 of the Wisconsin State Statutes.

1.0300 TITLE

This municipal code of general ordinances shall be known, cited, and referenced to as the *CODE OF GENERAL ORDINANCES OF THE TOWN OF WAGNER, MARINETTE COUNTY, WISCONSIN*.

1.0400 AMENDMENTS

Any additions or amendments to this code are incorporated in this code so that a reference to the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin* includes such additions and amendments.

1.0500 RULES OF CONSTRUCTION

In the construction of this code of general ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

1.0501 Wisconsin State Statutes

The term Wis. State Stats. Wherever used in this code shall mean the Wisconsin State Statutes.

1.0502 Gender, Singular, and Plural

Every word in this code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

1.0503 Person

The word *person* extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

1.0504 Acts or Agents

When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

1.0505 Numbering of Sections

Each section number of this code shall consist of two component parts separated by a period, the figure before the period referring to the chapter number and the figure after the period referring to the position of the section within the chapter.

1.0506 Number Additions

The decimal system shall be used for all additions or amendments to this code. When a chapter or section is to be added the new chapter or section shall be given a decimal character, when practical using the following outline:

Chapter 1
 1.0100
 1.0101
 A.
 1.
 a.
 (1)
 (a)

1.0600 CONFLICT AND SEPARABILITY

1.0601 Conflict of Provisions

If the provisions of the different Chapters of this Code conflict with or contravene each other, the provisions of each Chapter shall prevail as to all matters and questions arising out of the subject matter of such Chapter.

1.0602 Separability of Code Provisions

If any Section, Subsection sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other Section, Subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more Sections, Subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

1.0700 AFFECT ON GENERAL ORDINANCES

Any existing ordinance heretofore adopted by the Town Board which is not made part of this Code shall be unaffected by this Code of General Ordinances. Where there is a conflict between this Code and such existing ordinance, the more restrictive provisions shall apply.

1.0800 EFFECT OF REPEALS

The repeal or amendment of any Section or provision of this Code or of any other ordinance or resolution of the Board shall not:

- A. By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.
- B. Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the

privilege of repealing such obligation or privilege has been reserved by the Town.

- C. Affect any offense committed or penalty or forfeiture incurred, previous to the time when any ordinance shall be repealed or amended, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgement to be pronounced after such ordinance takes effect for any offense committed before that time.
- D. Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid shall be repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances, and such prosecution shall proceed, in all respects, as if such ordinance or ordinances had not been repealed, except that all such proceedings had after the time this Code shall take effect, shall be conducted according to the provisions of this Code.

1.0900 EFFECTIVE DATE

This Code of Ordinances shall take effect from and after passage and publication as provided in Section 60.80, and Section 66.0103 Wis. State Stats. All references thereto shall be cited by Chapter and Section number (example: Chapter 1, Section 1.0900, of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*).

1.1000 COPIES ON FILE

Copies of this Code of General Ordinances shall be maintained and available for inspection in the office of the Town Clerk.

1.1100 CITATIONS AND PENALTIES

The Board of Supervisors of the Town of Wagner does ordain as follows:

1.1101 Authority

Pursuant to the authority of Section 66.0113 of the Wisconsin Statutes, the Town of Wagner hereby elects to use the citation method of enforcement of adopted ordinances including those for which a statutory counter-part exists.

1.1102 Citation Content

- A. The citation shall contain the following:
 - 1. The name and address of alleged violation
 - 2. Factual allegations describing the alleged violation
 - 3. The time and place of the offense
 - 4. The section of the ordinance violated
 - 5. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.

6. The time at which the alleged violator may appear
7. A statement which in essence informs the alleged violator
 - (a) That a cash deposit based on the schedule established by this ordinance may be made which shall be delivered or mailed to the Clerk of Circuit Court of Marinette County or the Town of Wagner or any other designated officer prior to the time of the scheduled court appearance.
 - (b) That if a cash deposit is made, no appearance in Court is necessary unless subsequently summoned.
 - (c) That if a cash deposit is made, and the alleged violator does not appear in Court, the non-appearance will be deemed a plea of no contest, for which a forfeiture not to exceed the amount of deposit is submitted, or, if the court does not accept the plea of no contest, a summons will be issued for the alleged violator to appear in Court to answer the complaint.
 - (d) That if no cash deposit is made and the alleged violator does not appear in Court at the time specified, an action may be commenced to collect the forfeiture up to the maximum permitted by law.
 - (e) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under (7) above has been read. Such statement shall be sent or brought with the cash deposit
 - (f) The form of the citation shall be that of the Wisconsin Uniform Municipal Citation adopted pursuant to Wisconsin Statutes Section 66.0113 as amended from time to time and the current form shall be incorporated into this ordinance by reference.

B. Schedule of Deposits

1. The schedule of cash deposits shall be established for use with citations issued under this Chapter by the Town Board according to the penalty provision of this Code (Chapter 10, Section 10.0218).
2. Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court who shall provide a receipt therefore.
3. All deposit figures herein to be increased by any penalty assessments, fees and actual court costs in effect at time of offense and imposed by the Circuit Court of Marinette County.
4. Deposit shall be paid in cash, money order or certified check to the Clerk of Circuit Court of Marinette County or the Town of Wagner Clerk or any other designated officer who shall provide a receipt of therefore.

1.1103 Issuance of Citations

Any law enforcement officer empowered to act in the Town of Wagner, the Town of Wagner Zoning Administrator, the Town constable, or any other designated Town of Wagner official authorized by the Town Board from time to time may issue citations for enforcement of any ordinance authorized under this ordinance.

1.1104 Procedure

The provisions of Section 66.0113 (3) (a) relating to violator's options and procedure on default are hereby adopted and incorporated herein by reference.

1.1200 KEEPING CODE CURRENT; REVISER'S AMENDMENTS

As each ordinance or resolution affecting the Code of General Ordinances becomes effective, the Town Clerk shall incorporate them into the Code of General Ordinances. The Town Clerk shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit them without first submitting them to the Town Board; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Code of General Ordinances affected thereby.

1.1300 RESERVED

1.1400 RESERVED

1.1500 RESERVED

1.1600 NON-EXCLUSIVITY

Adoption of this ordinance in no way precludes the adoption of any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this ordinance in no way precludes the processing under any other law or ordinance relating to the same or any other matter.

1.1700 SEVERABILITY

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or application of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

1.1800 EFFECTIVE DATE

This ordinance shall take effect and be in force upon its passage and publication as provided by law.

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**CODE OF GENERAL ORDINANCES
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CHAPTER 2: TOWN ADMINISTRATION AND PERSONNEL

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CHAPTER 2: TOWN ADMINISTRATION AND PERSONNEL

2.0100 TOWN GOVERNMENT AND ELECTIONS

2.0101 Town Board

A. Authority and Powers

The Wagner Town Board has the specific authority, powers and duties to manage and direct the affairs of the Town as set forth in Chapter 60 and other provisions of the Wisconsin Statutes, including powers conferred on village boards by ch. 61, Wis. Stat. the exercise of which does not conflict with the duties and powers of town boards set forth elsewhere in the Wisconsin Statutes, granted by annual Town Meeting. The Town Board shall have charge of all of the affairs of the Town not otherwise delegated by law to the annual Town Meeting or other Town officers.

B. Membership Compensation

The Town Board shall be composed of three (3) members, two Supervisors and a Chairman. The two supervisors and Chairman shall be elected in the odd-numbered year. The Chairman and the Supervisors shall receive such compensation as established at a Town Meeting.

C. Vacancies

Vacancies in elective offices shall be filled by appointment by a majority vote of the Town Board for the remainder of the unexpired term.

D. Meetings

The Town Board shall meet each month in the Town Hall or such other place or place as the Board shall designate and notice pursuant to the Wisconsin Open Meetings law. Any regular meeting of the Town Board falling upon a legal holiday shall be held on the day designated by the Town Board. Special meetings may be called by the Chairman or any Supervisor by requesting the Town Clerk to call such meeting, stating the time and place for the meeting, by notifying each Supervisor and the public in accordance with §19.84 of the Wisconsin Statutes. Notice of all Town Board meetings shall be given in compliance with the Wisconsin Open Meeting Law, by posting written notice of the time, place and purpose thereof in three (3) public places in the Town and by written or oral notice to the media which has requested such notice at least 24 hours prior to the meeting, unless in an emergency, when proper notice shall be posted and given to the media at least two (2) hours prior to the meeting. No business shall be transacted at a special meeting except for the purpose which was stated in the notice thereof.

E. Quorum

Two members of the Town Board shall constitute a quorum and the only business to be undertaken in the absence of a quorum shall be to adjourn from time to time or to compel the attendance of absent members.

F. Conduct of Meetings

The Order of Business at meetings shall be substantially as follows:

1. Call to order
2. Roll call and declaration of a quorum. If a quorum is not present, the meeting shall be adjourned
3. Certificates and announcement of compliance with Wisconsin Open Meeting Law posting and Town Municipal Code notice and publication procedures
4. Approval of agenda
5. Reading, correction and approval of minutes of previous meetings.
6. Public comments
7. Communications
8. Reports
 - (a) Town Committee and Commission Reports
 - (b) Town Officials Report
 - (1) Treasurers Report
 - (2) Other Town Officials
9. Old business
10. New business
11. Resolutions and Ordinances
12. Adjournment

G. Notice

1. Agendas

The Town Clerk or person designated by the Town Chairman shall prepare a written agenda for each Town Board or committee meeting and distribute and post or publish the same as provided by the Wisconsin Open Meeting Law, ch. 19, Wis. Stat., and the Code of General Ordinances for the Town of Wagner, Marinette County, Wisconsin.

2. Ordinances and Resolutions

All ordinances, resolutions or bylaws shall be reduced to writing before final action by the Board. Unless requested by a Supervisor or Chairperson before final vote is taken, no ordinance, resolution, bylaw or communication need be read in full.

H. Rules of Order

The meetings of the Board shall be conducted in accordance with the parliamentary rules contained in *Robert's Rules of Order, newly revised*, or the most recent version thereof, except as otherwise specifically provided in these ordinances or by written bylaw adopted by the Board.

I. Suspension of Rules

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of 2/3 of the members present, but in no event shall the rules be suspended when there are less than 3 Board Members present.

2.0200 TOWN MEETINGS AND TOWN BOARD MEETINGS

2.0201 Town Meetings

A. Annual Town Meeting

The annual Town Meeting shall be held on the 2nd Wednesday in April unless a later date is set by the previous Annual Town Meeting, but not later than 10 days after the 2nd Tuesday in April. The Town Board may change the location of the annual Meeting. If the place of the Meeting is changed, the Town Clerk shall publish or post a class 2 notice under Ch. 985, Wis. Stat., of the time, date and location of the Meeting and shall make and file an affidavit of posting of such notice, if any. The annual Town Meeting has the powers set forth in § 60.10, Wis. Stat., or post in 3 public places all resolutions, motions or other actions adopted by the Town Meeting as required by § 60.80, Wis. Stat.

B. Special Town Meetings

A special Town Meeting may be called by the Town Board or by written request of electors equal to at least 10% of the votes cast in the Town at the last election for governor. The call shall state the time, date and purpose of the special Town Meeting. The Town Clerk shall publish or post a class 2 notice stating the time date and purpose of the special Meeting not more than 20 days or less than 15 days prior thereto. Special Town Meetings must be held at the place where the preceding Town Meeting was held unless changed by the Town Board. Any business which may be transacted at the annual Town Meeting may be transacted at a special Town Meeting provided it is specified in the call and notice.

2.0300 GENERAL REGULATIONS GOVERNING ALL TOWN OFFICERS

2.0301 Effect

The provisions of this section shall apply to all officers of the Town, regardless of the time of creation of the office or method of selection of the officer unless otherwise specifically provided by ordinance or resolution of the Town Board.

A. Official Oath of Office

Every officer of the Town, including members of Town boards and commissions, shall, before entering upon his/her duties and within five (5) days of election or appointment or notice thereof, take the oath of office prescribed by Section 19.01 of the Wisconsin Statutes and file said oath in the office of the Town Clerk, except the Town Clerk who shall file his/her oath in the office of the Town Treasurer. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.

B. Bond

Every officer shall, if required by law or the Town Board, upon entering upon the duties of his office, give a bond in such amount as may be determined by the Town Board with such sureties as are approved by the Town Chairman, conditioned upon the faithful performance of the duties of his office. Official bonds shall be filed as are oaths as provided in sub. (B) of this section.

C. Salaries

All appointed officers of the Town shall receive such salaries as may be provided from time to time by the Town Board. No officer receiving a salary from the Town shall be entitled to retain any portion of any fees collected by him or her for the performance of his duties as such officer in the absence of a specific law or ordinance to that effect. Payment of regular wages and salaries established by the Town Board shall be by voucher as provided by statute.

D. Vacancies

Vacancies in appointive offices shall be filled in the same manner as the original appointment for the remainder of the unexpired term unless the term for such office is indefinite.

2.0400 TOWN OFFICERS AND EMPLOYEES

2.0401 Clerk

In general perform all other duties required by law, Wisconsin Statutes 66.33, ordinance or lawful direction of the town meeting or town board.

2.0402 Deputy Town Clerk

Each town clerk may appoint one or more deputies for whom the town clerk is responsible. A deputy shall take and file the official oath and bond under s. 60.31. The town clerk may designate a deputy to perform the clerk's duties during the absence, sickness or other disability of the clerk.

2.0403 Town Treasurer

In general perform all other duties required by law, Wisconsin Statutes 66.34, ordinance or lawful direction of the town meeting or town board.

2.0404 Deputy Town Treasurer

Each town treasurer may appoint a deputy for whom the treasurer is responsible. The deputy shall take and file the official oath and bond under s. 60.31.

In case of the absence, sickness or other disability of the treasurer, the deputy shall perform the treasurer's duties.

2.0405 Town Constable

In general perform all duties required by law, Wisconsin Statutes 66.22(4), ordinance or lawful direction of the town meeting or town board.

2.0500 GENERAL

The town board may employ on a temporary or permanent basis persons necessary to carry out the functions of town government including, subject to sub. (4), any elected officer of the town. The board may establish the qualifications and terms of employment, which may include the residency of the employee. The board may delegate the authority to hire town employees to any town official or employee.

2.0600 LEGAL ASSISTANCE

The town board may designate, retain or employ one or more attorneys on a temporary or continuing basis to counsel the town on legal matters or represent the town in legal proceedings.

2.0700 TREASURER

The Town Treasurer shall have the rights, duties and obligations as specified in Chapter 60.34, Wis. State Stats. (per Wis. State Stats. 60.305(1) WI Act 34 allows for the appointed position of Town Treasurer) [Revision Adopted 4/27/98]

2.0800 ASSESSOR

The Town Assessor shall have the rights, obligations and duties as specified in Chapter 70, Wis. State Stats.

2.0900 ZONING ADMINISTRATOR

A. Designated

The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance.

B. Duties

The duty of the Zoning Administrator shall be to interpret and administer this Code and to issue, after on-site inspection if needed, all permits required by this Code. Additionally, the Zoning Administrator is required to perform all lawful duties and functions as direct by the town meeting or town board.

C. The Zoning Administrator shall further:

1. Maintain Records of all permits issued, inspections made, work approved, and other official actions;
2. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Code;
3. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Code to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Town Board, Plan Commission and Town Attorney in a manner specified by him or her;
4. Assist the Town Board, Plan Commission and Town Attorney in the prosecution of Code violations;
5. Issue citations for enforcement of and or violation of this ordinance;
6. Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Code. If, however, he/she is refused entry after presentation of his/her identification, he/she may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes;
7. Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection;
8. Attend meetings of the Town Plan Commission and the Town Zoning Board of Appeals upon request.

2.0902 Reserved

2.0903 Reserved

2.0904 Reserved

2.0905 Reserved

2.0906 Reserved

2.1000 BOARDS, COMMISSIONS, AND COMMITTEES

2.1100 PLAN COMMISSION

2.1101 Authority; Establishment

The Town Board of the Town of Wagner has been authorized by the Town meeting under sec. 60.10 (2)(c), 60.62, 61.35, and 62.23 of the Wisconsin Statutes, to exercise village powers and the Town has a population of less than 2,500, according to the most recent regular or special federal census, sec. 990.01(29), Wis. Stats. The Town Board hereby exercises village powers under sec. 60.22(3), Wis. Stats., and establishes a five (5) member Plan Commission under secs. 60.62(4), 61.35 and 62.23, Wis. Stats. The Plan Commission shall be considered the “Town Planning Agency” under sections. 236.02(13) and 236.45, Wis. Stats., which authorize, but do not require, Town adoption of a subdivision or other land division ordinance.

A. Membership

The Plan Commission shall consist of five (5) members to include at least four (4) citizen members who are residents of the Town and who shall be persons of recognized experience and qualifications and the fifth person may be a Town Board member appointed by the Town Chairman.

B. Appointments

The Town Board Chairperson shall appoint the members of the Plan Commission during the month of April to fill any expiring term. The Town Board Chairperson may appoint himself or herself or another Town Board member to the Plan Commission. [All appointments are subject to the approval of the Town Board.] In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Board Chairperson shall be made after the election and qualification of the Town Board member elected.

Any citizen appointed to the Plan Commission shall take and file the oath of office within (5) days of notice of appointment, as provided under secs. 19.01 and 60.31, Wis. Stats.

C. The Plan Commission Chairperson shall be elected by a majority vote of the Plan Commission.

D. Terms of Office

The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of 3 years, ending on April 30, or until a successor is appointed and qualified. However, the Plan Commission member who is the Town Board Chairperson or Town Board Supervisor shall serve on the Commission for a period of two (2) years, as allowed under sec. 66.0501(2), Wis. Stats., concurrent with his or her term on the Town Board. An initial appointment of such Town Board Chairperson or Town Board member made after April 30 shall be for a term that expires two (2) years from the previous April 30.

E. Vacancies

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

F. Compensation; Expenses

The Town Board of the Town of Wagner will determine a per diem allowance for citizen and Town Board members of the Plan Commission, as allowed under sec. 66.0501(2), Wis. Stats. In addition, the Town Board may reimburse reasonable costs and expenses, as allowed under sec. 66.0321, Wis. Stats.

G. Experts and Staff

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

H. Rules; Records

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

I. Chairperson and Officers

1. Chairperson.

The Plan Commission Chairperson shall be elected by the Plan Commission and serve a term as provided in this ordinance. The Chairperson shall, subject to Town ordinances and Commission rules:

- (a) Provide leadership to the Commission;
- (b) Set Commission meeting and hearing dates;
- (c) Provide notice of Commission meetings and hearings and set their agendas, personally or by his or her designee;
- (d) Preside at Commission meetings and hearings; and
- (e) Ensure that the laws are followed.

J. Vice Chairperson

The Plan Commission may elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., a Vice Chairperson to act in the place of the Chairperson when the Chairperson is absent or incapacitated for any cause.

K. Secretary

The Plan Commission shall elect, by open vote or secret ballot under sec. 19.88(1), Wis. Stats., one of its members to serve as Secretary, or, with the approval of the Town Board, designate the Town Clerk or other Town officer or employee as Secretary.

L. Commission Members as Local Public Officials

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

M. General & Miscellaneous Powers

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

1. Necessary to enable it to perform its functions and promote Town planning.
2. To make reports and recommendations relating to the plan and development of the Town to the Town Board, other public bodies, citizens, public utilities and organizations.
3. To recommend to the Town Board programs for public improvements and the financing of such improvements.
4. To receive from public officials, within a reasonable time, requested available information required for the Commission to do its work.
5. For itself, its members and employees, in the performance of their duties, to enter upon land, make examinations and survey, and place and maintain necessary monuments and marks thereon. However, entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

N. Town Comprehensive Planning: General Authority & Requirements

The Plan Commission shall make and adopt a comprehensive plan under secs. 62.23 and 66.1001, Wis. Stats., which contains the elements specified in sec. 66.1001(2), Wis. Stats, and follows the procedures in sec. 66.1001(4), Wis. Stats.

In this section the requirement to “make” the plan means that the Plan Commission shall ensure that the plan is prepared, and oversee and

coordinate the preparation of the plan, whether the work is performed for the Town by the Plan Commission, Town staff, another unit of government, the regional planning commission, a consultant, citizens, an advisory committee, or any other person, group or organization.

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

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

1. Public participation verification

Prior to beginning work on a comprehensive plan, the Plan Commission shall verify that the Town Board has adopted written procedures designed to foster public participation in every stage of preparation of the comprehensive plan. These written procedures shall include open discussion, communication programs, information services and noticed public meetings. These written procedures shall further provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments to be submitted by members of the public to the Town Board and for the Town Board to respond to such written comments.

2. Resolution

The Plan Commission, under sec. 66.1001(4)(b), Wis. Stats., shall recommend its proposed comprehensive plan or amendment to the Town Board by adopting a resolution by a majority vote of the entire Plan Commission. The vote shall be recorded in the minutes of the Plan Commission. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of the comprehensive plan. The resolution adopting a comprehensive plan shall further recite that the requirements of the comprehensive planning law have been met, under sec. 66.1001, Wis. Stats., namely

- (a) The Town Board adopted written procedures to foster public participation and that such procedures allowed public participation at each stage of preparing the comprehensive plan;
- (b) The plan contains the nine (9) specified elements and meets the requirements of those elements;
- (c) The maps and other descriptive materials relate to the plan;
- (d) The plan has been adopted by a majority vote of the entire Plan Commission, which the clerk or secretary is directed to record in the minutes; and

- (e) The Plan Commission clerk or secretary is directed to send a copy of the comprehensive plan adopted by the Commission to the governmental units specified in sec. 66.1001 (4), Wis. Stats., and sub. (3) of this section.

3. Transmittal

One copy of the comprehensive plan or amendment adopted by the Plan Commission for recommendation to the Town Board shall be sent to:

- (a) Every governmental body that is located in whole or in part within the boundaries of the Town, including any school district, Town sanitary district, public inland lake protection and rehabilitation district or other special district.
- (b) The clerk of every city, village, town, county and regional planning commission that is adjacent to the Town.
- (c) The Wisconsin Land Council.
- (d) After September 1, 2003, the Department of Administration.
- (e) The regional planning commission in which the Town is located.
- (f) The public library that serves the area in which the Town is located.

P. Plan Implementation and Administration

1. Ordinance Development

If directed by resolution or motion of the Town Board, the Plan Commission shall prepare the following:

- (a) A proposed Town zoning ordinance under village powers, secs. 60.22(3), 61.35 and 62.23(7), Wis. Stats., a Town construction site erosion control and stormwater management zoning ordinance under sec. 60.627(6), Wis Stats., a Town exclusive agricultural zoning ordinance under subch. V of ch. 91, Wis. Stats., and any other zoning ordinance within the Town's authority.
- (b) A proposed official map ordinance under sec. 62.23(6), Wis. Stats.
- (c) A proposed Town subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
- (d) Any other ordinance specified by the Town Board (Note: e.g., historic preservation, design review, site plan review).
- (e) The Plan Commission, on its own motion, or at the direction of the Town Board by its resolution or motion, may prepare

proposed amendments to the Town's ordinances relating to comprehensive planning and land use.

- (f) The Plan Commission, on its own motion, or at the direction of the Town Board by resolution or motion, may propose non-regulatory programs to implement the comprehensive plan, including programs relating to topics such as education, economic development and tourism promotion, preservation of natural resources through the acquisition of land or conservation easements, and capital improvement planning.
- (g) The Plan Commission shall, pursuant to Town ordinances, have the following powers.
 - (1) The zoning administrator shall refer applications for conditional use permits under Town zoning to the Plan Commission for review and determination as provided under section 10.0501 of the Town zoning ordinances.
 - (2) Proposed plats under ch. 236, Wis. Stats. shall be referred to the Plan Commission for review and determination.

Q. Referrals to the Plan Commission

- 1. Required referrals under sec. 62.23(5), Wis. Stats. The following shall be referred to the Plan Commission for report to the Town Board:
 - (a) The location and architectural design of any public building.
 - (b) The location of any statue or other memorial.
 - (c) The location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any
 - (1) street, alley or other public way;
 - (2) park or playground;
 - (3) airport;
 - (4) area for parking vehicles; or
 - (5) other memorial or public grounds
 - (d) The location, extension, abandonment or authorization for any publicly or privately owned public utility.
 - (e) All plats under the Town's jurisdiction under ch. 236, Wis. Stats., including divisions under a Town subdivision or other land division ordinance adopted under sec. 236.45, Wis. Stats.

- (f) The location, character and extent or acquisition, leasing or sale of lands for:
 - (1) public or semi-public housing;
 - (2) slum clearance;
 - (3) relief of congestion; or
 - (4) vacation camps for children
 - (g) The amendment or repeal of any ordinance adopted under sec. 62.23, Wis. Stats., including ordinances relating to: the Town Plan Commission; the Town master plan; the Town comprehensive plan under sec. 66.1001, Wis. Stats.; an official map under sec. 62.23(6); and, Town zoning under village powers.
2. Required referrals under sections of the Wisconsin Statutes other than sec. 62.23(5), Wis. Stats. The following shall be referred to the Plan Commission for report to the Town Board:
- (a) An application for initial licensure of a child welfare agency or group home under sec. 48.68(3), Wis. Stats.
 - (b) An application for initial licensure of a community-based residential facility under sec. 50.03(4), Wis. Stats.
 - (c) Proposed designation of a street, road or public way, or any part thereof, wholly within the jurisdiction of the Town, as a pedestrian mall under sec. 66.0905, Wis. Stats.
 - (d) Matters relating to the establishment or termination of an architectural conservancy district under sec. 66.1007, Wis. Stats.
 - (e) Matters relating to the establishment of a reinvestment neighborhood required to be referred under sec. 66.1107, Wis. Stats.
 - (f) Matters relating to the establishment or termination of a business improvement district required to be referred under sec, 66.1109, Wis. Stats.
 - (g) A proposed housing project under sec. 66.1211(3), Wis. Stats.
 - (h) Matters relating to urban redevelopment and renewal in the Town required to be referred under subch. XIII of ch. 66, Wis. Stats.
 - (i) The adoption or amendment of a Town subdivision or other land division ordinance under sec. 236.45(4), Wis. Stats.
 - (j) Any other matter required by the Wisconsin Statutes to be referred to the Plan Commission.

3. In addition to referrals required by the Wisconsin statutes, the following matters shall be referred to the Plan Commission for determination:
 - (a) Any proposal, under sec. 59.69, Wis. Stats., for the town to approve general county zoning so that it takes effect in the town, or to remain under general county zoning.
 - (b) Proposed regulations or amendments relating to historic preservation under sec. 60.64, Wis. Stats.
 - (c) A proposed driveway access ordinance or amendment.
 - (d) A proposed Town official map ordinance under sec. 62.23(6), Wis. Stats., or any other proposed Town ordinance under sec. 62.23, Wis. Stats., not specifically required by the Wisconsin Statutes to be referred to the commission.
 - (e) A proposed Town zoning ordinance or amendment adopted under authority separate from or supplemental to sec. 62.23, Wis. Stats., including a Town construction site erosion control or stormwater management zoning ordinance under sec. 60.627(6), Wis. Stats., and a Town exclusive agricultural zoning ordinance under sec. V of ch. 91, Wis. Stats.,
 - (f) Consider applications and issue a conditional use permit under the Town Zoning Ordinance.
 - (g) A proposed site plan under the Town Zoning Ordinance.
 - (h) A proposed extraterritorial zoning ordinance or a proposed amendment to an existing ordinance under sec. 62.23(7a), Wis. Stats.
 - (i) A proposed boundary change pursuant to an approved cooperative plan agreement under sec. 66.0307, Wis. Stats., or a proposed boundary agreement under sec. 66.0225, Wis. Stats., or other authority.
 - (j) A proposed zoning ordinance or amendment pursuant to an agreement in an approved cooperative plan under sec. 66.0307(7m), Wis. Stats.
 - (k) Any proposed plan, element of a plan or amendment to such plan or element developed by the regional planning commission and sent to the Town for review or adoption.
 - (l) Any proposed contract, for the provision of information, or the preparation of a comprehensive plan, an element of a plan or an implementation measure, between the Town and the regional planning commission, under sec. 66.0309, Wis. Stats., another unit of government, a consultant or any other person or organization.

- (m) A proposed ordinance, regulation or plan, or amendment to the foregoing, relating to a mobile home park under sec. 66.0435, Wis. Stats.
 - (n) A proposed agreement, or proposed modification to such agreement, to establish an airport affected area, under sec. 66.1009, Wis. Stats.
 - (o) A proposed town airport zoning ordinance under sec. 114.136(2), Wis. Stats.
 - (p) A proposal to create environmental remediation tax incremental financing in the town under sec. 66.1106, Wis. Stats.
 - (q) A proposed county agricultural preservation plan or amendment, under subch. IV of ch. 91, Wis. Stats., referred by the county to the Town, or proposed Town agricultural preservation plan or amendment.
 - (r) Other (specify)
 - (s) Any other matter required by any Town ordinance or Town Board resolution or motion to be referred to the Plan Commission.
4. Discretionary referrals. The Town Board, or other town officer or body with final approval authority or referral authorization under the Town ordinances, may refer any of the following to the Plan Commission for report:
- (a) A proposed county development plan or comprehensive plan, proposed element of such a plan, or proposed amendment of such plan.
 - (b) A proposed county zoning ordinance or amendment.
 - (c) A proposed county subdivision or other land division ordinance under sec. 236.45, Wis. Stats., or amendment.
 - (d) An appeal or permit application under the county zoning ordinance to the county zoning board of adjustment, county planning body or other county body.
 - (e) A proposed intergovernmental cooperation agreement, under sec. 66.0301, Wis. State., or other statute, affecting land use, or a municipal revenue sharing agreement under sec. 66.0305, Wis. Stats.
 - (f) A proposed plat or other land division under the county subdivision or other land division ordinance under sec. 236.45, Wis. Stats.
 - (g) A proposed county plan, under sec. 236.46, Wis. Stats., or the proposed amendment or repeal of the ordinance adopting such

plan, for a system of town arterial thoroughfares and minor streets, and the platting of lots surrounded by them.

- (h) Any matter deemed advisable for referral to the Plan Commission for report.

5. Referral period

No final action may be taken by the Town Board or any other officer or body with final authority on a matter referred to the Plan Commission until the Commission has made its report, or thirty (30) days, or such longer period as stipulated by the Town Board, has passed since referral. The thirty (30) day period for referrals required by the Wisconsin Statutes may be shortened only if so authorized by statute. The thirty (30) day referral period, for matters subject to required or discretionary referral under the Town's ordinances, but not required to be referred under the Wisconsin Statutes, may be made subject by the Town Board to a referral period shorter or longer than the thirty (30) day referral period if deemed advisable.

2.1200 ZONING BOARD OF APPEALS

2.1201 Authority and Establishment

Pursuant to Section 62.23 (7) (c) Wisconsin Statutes, there is hereby established a Zoning Board of Appeals for the Town of Wagner for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of the Zoning Ordinance.

A. Membership

1. The Zoning Board of Appeals shall consist of 5 members appointed by the Town Chairperson and confirmed by the Town Board.
2. Terms shall be for staggered 3-year periods.
3. The Chairperson shall be elected by the Zoning Board of Appeals.
4. An Alternate Member may be appointed by the Town Chairperson for a term of 3 years and shall act only when a regular member is absent or refuses to vote because of a conflict of interest.
5. The Secretary shall be elected by the Zoning Board of Appeals.
6. The Zoning Administrator shall attend meetings for the purpose of providing technical assistance when requested by the Board.
7. Official Oaths shall be taken by all members in accordance with the Wisconsin Statutes within 10 days of receiving notice of their appointment.
8. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

B. Organization

1. The Zoning Board of Appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this Ordinance.
2. Meetings shall be held at the call of the Chairperson and shall be open to the public.
3. 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 Board of Appeals (Town Hall) and shall be a public record.
4. The Concurring Vote of 4 members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a substituted use.

C. Powers

1. The Zoning Board of Appeals shall have the following powers:

2. Errors

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or Plan Commission.

3. Variances

To hear and grant appeals for variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.

4. Interpretations

To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Plan Commission has made a review and recommendation.

5. Substitutions

To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

6. Permits

The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issuance of a permit.

7. Assistance

The Board may request assistance from other Town officers, departments, commissions, and boards.

8. Oaths

The Chairperson may administer oaths and compel the attendance of witnesses.

D. Appeals and Applications

1. Appeals from the decisions of the Zoning Administrator and Plan Commission concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, or board of the Town. Such appeals shall be filed with the secretary within 30 days after the date of written notice of the decision or order of the Zoning Administrator and Town Plan Commission. Applications for other determinations by the Board of Appeals provided by this Ordinance 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. Such appeals and applications shall include the following information:

- (a) Name and Address of the appellant or applicant and all abutting and opposite property owners of the record.
- (b) Plat of Survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing all of the information required under Section 10.0203 for a Zoning/Building Permit.
- (c) Additional Information required by the Town Board, Town Plan Commission, Zoning Board of Appeals, or Zoning Administrator.

E. Hearings

1. The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing, and shall give notice as specified in Section 10.1500 of this Ordinance. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

F. Findings

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

1. **Preservation of Intent**

No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated principal use, accessory use, or conditional use in that particular district.

2. **Exceptional Circumstances**

There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties of uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

3. **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance**

No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

4. **Preservation of Property Rights**

The variance must be necessary for the preservation and enjoyment of

substantial property rights possessed by other properties in the same district and same vicinity.

5. Absence of Detriment

No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

G. Decisions

1. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, Plan Commission, and the Town Board.
2. Conditions may be placed upon any Zoning/Building Permit ordered or authorized by this Board.
3. Variances or Substitutions granted by the Board shall expire within 12 months unless substantial work has commenced pursuant to such grant.

H. Review by Court of Record

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying 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 Zoning Board of Appeals.

2.1300 EFFECTIVE DATE

Following passage by the Town Board, the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin* shall take effect the day after the date of publication or posting as provided by sec. 60.80, Wis. Stats.

**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 3: RESERVED

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**CODE OF GENERAL ORDINANCES
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TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

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CHAPTER 5: RESERVED

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**CODE OF GENERAL ORDINANCES
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CHAPTER 6: BURIAL AND CEMETERY ORDINANCE

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CHAPTER 6: BURIAL AND CEMETERY ORDINANCE

6.0100 PURPOSE

The purpose of this Ordinance is to regulate the burial of human corpses and other cemetery uses and activities in the Town of Wagner.

6.0200 TITLE

This ordinance is entitled “BURIAL AND CEMETERY ORDINANCE” and is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*.

6.0300 POLICY

The Town Board may adopt in writing additional regulations and by-laws under section 157.11(2) of the Wisconsin Statutes for operation, management, and administration of any cemetery located in the Town of Wagner. The Town of Wagner reserves the right to amend any of this Ordinance to conform to newly developed cemetery practices. However, before this Ordinance is amended, a public hearing shall be held thereon before the Town Board and a Class 2 public notice shall be published in a local newspaper prior to such hearing

6.0400 CONDITIONAL USE PERMIT REQUIRED

Pursuant to the *CHAPTER 10: “ZONING ORDINANCE,”* of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*, a new or expanded cemetery is allowed in A-1 Agricultural zoned districts only after a conditional use permit is issued by the Town of Wagner Plan Commission.

6.0500 PLATTING OF NEW OR EXPANDED CEMETERY LOTS/OPERATIONS

Before any new block of any new or expanded Cemetery in the Town of Wagner is opened for sale of cemetery lots or for burial of human remains, the cemetery blocks and lots shall be platted and recorded in the Office of the Register of Deeds for Marinette County. For all other new or expanded cemeteries to be platted, dedicated or constructed for cemetery use after the effective date of this Ordinance in the Town of Wagner, the person, corporation, order, society, or association noted in section 157.065 of the Wisconsin Statutes to construct, manage, or operate such cemetery shall plat and record such plat as noted herein and under section 157.07 of the Wisconsin Statutes.

6.0600 NEW BURIAL SITES AND BURIAL OF HUMAN REMAINS

After the effective date of this Ordinance, the creation of a new burial and the burial of human remains is prohibited in the Town of Wagner unless the burial site and the burial of human remains occurs within a dedicated, platted and constructed cemetery in full compliance with this Ordinance and Chapter 157 of the Wisconsin Statutes. Any new or expanded cemetery or any burial site shall comply with any land division or zoning ordinance applicable in the Town of

Wagner.

6.0700 PUBLIC EASEMENT IN CEMETERY.

No person in violation of section 157.60 of the Wisconsin Statutes shall open or make any highway, Town road, private way or other public easement in or upon any cemetery burial site or location for burial of the dead in the Town of Wagner, unless written consent has been obtained by the proper State, County or Town authority.

6.0800 NEW OR EXPANDED CEMETERIES

No person or authorized agents of any cemetery shall construct, manage, plat, or operate any new or expanded cemetery of any type in the Town of Wagner, after the date of adoption of this Ordinance, without written approval of the Town Board. A cemetery for purposes of this Ordinance shall be any location for burial, as defined in section 157.061(1) of the Wisconsin Statutes, of human remains, as defined in section 157.061(8) of the Wisconsin Statutes, in the Town of Wagner that has been dedicated as a cemetery as “dedicated” is defined in section 157.061(4) of the Wisconsin Statutes, or as defined under common law. Proof of acceptance by the Town Board of the Town of Wagner, or any other cemetery authority of such burial sites for a cemetery, shall be necessary for a determination of a cemetery by the Town Board under this Ordinance. Any new or expanded cemetery to be approved by the Town Board shall be, at minimum, properly platted, as determined by the Town Board, and then recorded with the Town Clerk and the Marinette County Register of Deeds.

6.0900 BURIAL SITES

No person in the Town of Wagner shall disturb any burial site, as defined in section 157.70(1)(b) of the Wisconsin Statutes unless in compliance with section 157.70(6m) of the Wisconsin Statutes.

6.1000 NOTICE OF BURIAL SITES IN THE TOWN

Any person who locates a burial site, as defined in section 157.70(1)(b) of the Wisconsin Statutes, or suspected burial site, or receives oral or written notice of such burial site or suspected burial site in the Town of Wagner, outside a dedicated cemetery in the Town of Wagner, shall immediately contact the Town Clerk of the Town of Wagner. The Town Clerk shall, in writing, notice the Town Board of such burial site or suspected burial site.

6.1100 DISINTERMENT

Any interment or disinterment of any person buried in a Town of Wagner shall comply with section 157.112 of the Wisconsin Statutes. A Disinterment Permit shall be required prior to any disinterment or re-interment under section 69.18(4) of the Wisconsin Statutes.

6.1200 PENALTIES

Any person who violates any provision of this Ordinance, or any order, rule or regulation made or adopted hereunder, shall be subject to a forfeiture. Each day that a violation continues shall be considered a separate offense. The Town Board may, where appropriate, seek injunctive relief action to prevent violations of the Ordinance and Ordinance 157 of the Wisconsin Statutes. Furthermore, the Town Board of the Town of Wagner shall be permitted to withhold from any person in violation of this Ordinance and Ordinance 157 of the Wisconsin Statutes, the issuance of any Town of Wagner licenses, authorities, grants, or permits until the violation has been abated and all penalties and costs satisfied.

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**CODE OF GENERAL ORDINANCES
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CHAPTER 7: RESERVED

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**CODE OF GENERAL ORDINANCES
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CHAPTER 9: ANIMAL REGULATION ORDINANCE

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CHAPTER 9: ANIMAL REGULATION ORDINANCE

9.0100 AUTHORITY

The Town of Wagner pursuant to the authority granted by Sections 60.22(3), 60.62, 61.35, and 62.23(7) and other relevant provisions of the Wisconsin Statutes and amendments thereto, do ordain as follows:

9.0200 TITLE

This ordinance shall be referred to or cited as the “ANIMAL REGULATION ORDINANCE” and is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*.

9.0300 PURPOSE

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Wagner, Marinette County, Wisconsin.

9.0400 DEFINITIONS IN THIS CHAPTER:

9.0401 “Animal” Includes Every Living:

- A. Warm-blooded creature, except a human being;
- B. Reptile; or
- C. Amphibian; or
- D. Bird and fowl

9.0500 GENERAL REGULATIONS

9.0501 Mistreating Animals

No person may treat any animal, whether belonging to the person or another, in a cruel manner. No person shall cruelly treat, inhumanely beat, under feed, overload, or abandon any animal in the Town. No person shall cause or allow any place where any animal is or may be kept to become unclean or unwholesome.

9.0502 Animals At Large

- A. No person, owner, or custodian shall permit an animal to be at large within the town. Any animal shall be deemed to be at large when it is off the premises owned or leased by its owner or custodian unless crated, penned, or under the control of a person able to control the animal by means of a leash of sufficient strength to control the action of the animal or such other personal attention as will reasonably control the conduct and actions of the animal.
- B. Exclusion of Hunting/Sporting Dogs
Section 9.0502 A. above excludes hunting/sporting dogs in pursuit of game or utilized for sporting purposes, training, or conditioning, that are under the care and control of the owner or a person designated by the owner (caretaker) while on lands owned or leased by the owner/caretaker; public

lands upon which hunting, dog training and other typical uses of sporting dogs is allowed; or, on lands upon which the owner and caretaker of the dogs have received permission (in writing) to utilize for legal purposes.

- C. No person, owner, or custodian shall permit any animal to be left unattended within 5 feet of a public right-of-way.
- D. Such public rights-of-way include, but are not limited to sidewalks, streets, alleys, and parking lots.
- E. Unattended animals shall include those animals which are crated, penned, or leashed but which are without personal supervision or control sufficient to properly restrain the animal.
- F. No person shall permit any animal owned by or under the control of such person to trespass or be upon the property of another person without the owners or occupants permission.

9.0503 Dangerous or Wild Animals

- A. Members of the Marinette County Sherriff's Department, or any peace or health officer in the town, are authorized to kill any animal, bird, or reptile when it is necessary to protect persons or to prevent the communication or spread of infection or disease.
- B. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, canada lynx, bobcat, jaguarundai, hyena, coyote, wolf, wolf hybrid, alligator, poisonous snake or eagle, or other like dangerous wild animal, reptile, bird or creature in any place within the town other than in a safely and properly maintained zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital, designated pound or animal refuge, or in a well-secured vehicle, while being transported without delay to or from any such authorized place or through the town. Any such animal that is within the town at any time without being safely and properly maintained as authorized under any of the foregoing is declared to be a public nuisance and shall be dealt with in accordance with the provisions of this code of ordinances.
- C. It shall be no defense that the keeper of any such animal contrary to the provisions hereof has attempted to domesticate same.

9.0504 Noisy Animals

- A. No person shall harbor or keep any animal, bird or reptile which disturbs the peace by loud or unusual noises, at any time of the day or night.
- B. No owner or person in control of any dog shall suffer, permit or allow such animal to bark or bay in such a manner as to detrimentally affect the peaceful repose of one or more property owners or residents of the immediate area, and within earshot of the barking or baying. In determining whether the noise detrimentally affects peaceful repose, the volume of the noise, time of day, length of time the noise persists, the location of the animal, and prior substantiated complaints shall be relevant. Where a dog is

left unattended out-of-doors, it shall be presumed the owner or person in control is permitting the noise.

9.0505 Dogs - Licensed

A. No person shall own, harbor or keep any dog within the town unless the dog is licensed as provided by chap. 174.05, Wis. Stats.

B. Multiple dog permit

Any person wishing to keep more than three dogs but no more than four, may apply for a multiple dog permit on a form provided by the town clerk.

Information provided on the form shall include:

- (a) The name, age, and breed of each dog (up to four maximum)
- (b) The Town of Wagner license tag number of each dog currently licensed.
- (c) A copy of the lot layout with housing structures clearly indicated shall be supplied with the application.
- (d) The appropriate fee, as set from time to time by resolution of the Town board, shall also accompany the application.
- (e) Upon receipt of the application and the completion of any inspections that may be required, the clerk shall present the permit application to the Town board for review. The board shall take into consideration lot size, number of dogs requested, and housing accommodations for the dogs when making their decision to grant the permit. The board may set additional requirements as a condition of granting the permit.

Dogs listed in the application for the permit must be considered pets only. Breeding of dogs and other activities specified in the definition of Kennels in the Zoning Code must comply with that section of the Code.

An inspection of the premises by the Humane Officer shall be conducted after the permit application is submitted to the Town Clerk. The written report of the humane officer regarding property condition shall be considered by the Town board in their decision to grant the permit.

In addition to the multiple dog permit, all other regular individual licensing procedures apply.

Permits shall be good for one year from the date of issuance. They must be re-applied for annually and are subject to review.

- (f) Misuse of the permit may result in the immediate suspension of the permit.
- (g) Conditions for the re-issuance of the multiple dog permit may be added by action of the Town board at any time during the permit year.

The fee for the permit shall be as set from time to time by resolution of the Town Board.

The fine for failure to apply for the proper permit or to follow the conditions set in the permit by the Town Board may result in a fine of not less than \$20 nor more than \$2,500.00.

9.0506 Manner of Keeping

- A. No person shall permit any pet of which he/she is the owner or custodian to be at large within the town. Any pet shall be deemed to be at large when it is off the premises owned or leased by its owner unless crated, penned or under the control of a person able to control the conduct of the pet by means of a leash of sufficient strength to control the action of the animal or such other personal attention as will reasonably control the conduct and actions of the pet.
- B. Unattended dogs shall include those dogs which are crated, penned, or leashed but which are without personal supervision or control sufficient to properly restrain the dog.

9.0507 Nuisance Animals

Whereas animals, birds, and reptiles may have propensities to or may otherwise cause noise or odor or perform actions which may disturb persons in the reasonable use and enjoyment of property, or cause annoyance, discomfort or injury to the health or welfare of persons, the keeping of any animal, bird, or reptile in conflict with any provision of this Chapter is declared to be a public nuisance, and such animal, bird, or reptile may be impounded as provided by law.

9.0508 Animals Causing Damage or Injury

Any incident occurring in the Town where any animal bites a person, or is suspected of biting a person, shall be immediately reported to the Marinette County Sheriff's Department or to the Marinette County Health Officer by any person having knowledge of such incident and the following procedure shall be followed.

- A. Any animal which bites a person in the town, if it can be found, or any animal which is customarily kept within the town and which bites a person, shall be quarantined for a period of 14 days from the day of the bite for the purpose of observation for the possibility of rabies. Such quarantine shall be effected as directed by the health officer and may be:
 - 1. Confinement of the animal to a structure or enclosure which is adequate to with-strain the animal on the premises of the owner or agent.
 - 2. Confinement of the animal with a licensed veterinarian.
 - 3. Confinement of the animal at a boarding facility approved by the Town. Costs of boarding shall be at owners expense.

- B. No animal which is known or suspected to have bitten a person shall be destroyed until after the 14 day quarantine period has elapsed, unless it cannot be apprehended safely, in which case the destruction shall be accomplished without damage to the head of the animal, if at all possible. The County Health Officer shall be immediately notified of such destruction of the animal, and the dead animal shall not be disposed of until such specimens as the County Health Officer shall direct have been obtained and permission is given by him/her to dispose of the dead animal.
- C. In case an animal which has been quarantined in accordance with this section dies for any reason during the quarantine period, the person having custody of the animal shall immediately notify the Health Officer as required above.
- D. Without notice, the owner, custodian, or person in control of any animal shall forfeit not less than \$50 nor more than \$1,000 if the animal causes injury to any person, livestock, property, deer, game birds, or the nests or eggs of game birds.

9.0509 Keeping Nuisance Animals

The keeping of any animal, fowl, reptile, mammal or bird which affects or disturbs the public health, public peace, public safety or public decency is a public nuisance and is prohibited within the Town. No action shall be taken under this subsection unless and until the Town investigates, and they have ascertained that the raising or keeping of a particular animal, fowl, reptile, mammal or bird within the Town reasonably constitutes a condition which is detrimental to the public health, safety or welfare. For purposes of enforcing this subsection, any member of the Town Board, or person(s) designated by the Board or other peace officer may enter any premise for the purpose of inspection. Any person who violates any provision of this subsection shall be notified by the Town of the determination that a public nuisance exists on his/her premises. Each day that the condition continues after notification by the Town shall be considered a separate violation of this subsection.

9.0510 Dognapping and Catnapping

No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of this town or held for any purpose without the owner's consent. This section does not apply to law enforcement officers or humane society agents engaged in the exercise of the official duties.

9.0511 Decompression Prohibited

No person may kill an animal by means of decompression.

9.0512 Leading Animal from Motor Vehicle

No person shall lead any animal upon a highway or roadway from a motor vehicle or from a trailer or semitrailer drawn by a motor vehicle.

9.0513 Transportation of Animals

No person may transport any animal in or upon any vehicle in a cruel manner.

9.0514 Use of Poisonous and Controlled Substances

No person may expose any domestic animal owned by another to any known poisonous substance or controlled substance listed in Chapter 161.14, Wis. Stats., whether mixed with meat or other food or not, so that the substance is liable to be eaten by an animal and for the purposes of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

9.0515 Shooting at Caged or Staked Animals

No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves.

9.0516 Providing Proper Food and Drink to Confined Animals

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

A. Food

The food shall be sufficient to maintain all animals in good health.

B. Water

If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

9.0517 Providing Proper Shelter

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in Marinette County.

A. Indoor Standards

Minimum indoor standards of shelter shall include:

1. Ambient temperatures

The ambient temperature shall be compatible with the health of the animal.

2. Ventilation. Indoor

Housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

B. Outdoor Standards

Minimum outdoor standards of shelter shall include:

1. Shelter from sunlight

When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

2. Shelter from inclement weather

3. Animals generally

Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

4. Shelter for Dogs

If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

C. Space Standards

Minimum space standards for both indoor and outdoor enclosures shall include:

1. Structural strength

The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

2. Space requirements

Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

D. Sanitation Standards

Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to move excreta and other waste materials, dirt and trash so as to minimize health hazards.

9.0518 Keeping of Vicious Dogs Regulated

A. Definitions. The terms used in this section are defined as follows:

1. Vicious Dog.

- (a) Any dog with a propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.
- (b) Any dog which attacks a human being or another domestic animal without provocation.
- (c) Any dog owned or harbored primarily or in part for the purpose of dog- fighting, or any dog trained for dog-fighting.

2. Requirements and Prohibitions

- (a) Leash and Muzzle: No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash.
- (b) The dog may not be leashed to inanimate objects such as trees, posts and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval by the Police Department.

3. Confinement.

All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in 9.0518(A)(2)(a). The pen, kennel or structure shall have secure sides and a secure top attached to all sides.

4. Access to Structure

A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Town. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

B. Confinement Indoors

No vicious dog may be kept on a porch, patio or in part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

C. Prohibited in multiple dwellings

No vicious dog may be kept within any portion of any multiple building.

D. Signs

All owners, keepers or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public using the words "Beware Of Dog." A similar sign is required to be posted on the kennel or pen of the dog.

E. Insurance

All owners, keepers or harborers of vicious dogs shall within 30 days of the effective date of this section, provide proof to the Police Department of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given to the Police Department. The owner or custodian of the dog shall produce evidence of the required insurance upon request of the Police Department or any other law enforcement officer. This paragraph does not apply to dogs kept by law enforcement agencies.

F. Vicious Dog Determination

The County Sheriff's Department shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious", as defined in 9.0518(A)(1). In the event the Sheriff's Department makes a determination that the dog is "vicious", he or she shall so inform the owner, keeper or harborer of such dog and provide such person with a copy of this section.

G. Appeal of Vicious Dog Determination

Any person aggrieved by the determination of the Sheriff's Department, as provided in 9.0518(F), may appeal such determination by submitting a written appeal to the Town Of Wagner Town Board within 10 days of such determination.

H. Compliance.

Within 10 days of the determination that a dog is vicious, as provided in subsection F. above, or 10 days after an unsuccessful appeal under subsection G. above, the owner, keeper or harborer of a vicious dog shall either comply with all provisions of this section or dispose of such dog.

I. Disposition of Vicious Dogs

Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by the Police Department or any police officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

9.0600 ENFORCEMENT AUTHORITY

The Town Health Officer and/or Police Department shall have authority to enforce the provisions of this Ordinance, including but not limited to seizing any animal which the Health Officer and/or Police Department reasonably believes has been taken, employed, used or possessed in violation of this Ordinance. The Zoning Administrator and Building inspector may enforce any provisions of this chapter which relates to his or her position.

9.0601 Disposition

Any seized animal under this chapter shall be held by the Health Officer and/or Sheriff's Department until that animal is identified as to genus and species in order to ascertain if the animal is an endangered species under Section 29.415, Wis. Stats.

9.0602 Penalty

If the court finds that an animal has been taken, employed, used, or possessed in violation of this Ordinance, the costs of holding the animal and any costs incurred in identifying the animal shall be assessable to the defendant.

A. Forfeiture

In addition, any person, firm or corporation shall be subject to a forfeiture of at least \$10 nor more than \$1,000. In addition, the person shall be responsible for the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, he/she may be imprisoned in the County Jail until said costs and forfeiture are paid, but not to exceed 90 days for each offense.

B. In addition, for violations regarding prohibited animals, any person, firm or corporation found in violation of this Ordinance shall forfeit the prohibited animal as the Court deems proper. Prior to such forfeitures, the Town Board or person(s) designated by the Board or duly designated peace officer may direct a transfer of the animal to a qualified zoological, educational, or scientific institution or qualified private propagator for safe keeping, with costs assessable to the defendant.

C. Each day of continuing violation shall constitute a separate offense.

**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 10: ZONING ORDINANCE

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CHAPTER 10: ZONING ORDINANCE

10.0100 INTRODUCTION

10.0101 Authority

The Town of Wagner pursuant to the authority granted by Sections 60.22(3), 60.62, 61.35, and 62.23(7) and other relevant provisions of the Wisconsin Statutes and amendments thereto, do ordain as follows:

10.0102 Title

This Ordinance shall be referred to or cited as the “ZONING ORDINANCE, TOWN OF WAGNER, MARINETTE COUNTY, WISCONSIN” and is hereafter referred to as the “Ordinance”. This Ordinance is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*

10.0103 Purpose

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Wagner, Marinette County, Wisconsin.

10.0104 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and waters; and to:

- A. Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- B. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities;
- C. Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- D. Secure safety from fire, pollution, contamination and other dangers;
- E. Stabilize and protect existing and potential property values;
- F. Preserve and protect the beauty of the Town of Wagner;
- G. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- H. Further the maintenance of safe and healthful water conditions;
- I. Provide for and protect a variety of suitable commercial and industrial sites;
- J. Protect the traffic-carrying capacity of existing and proposed arterial roads and highways;

- K. Implement those town, county, watershed, and regional comprehensive plans or components of such plans adopted by the Town of Wagner, Marinette County; and
- L. Provide for the administration and enforcement of this Ordinance and provide penalties for the violation of this Ordinance.

10.0105 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, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

10.0106 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 and shall not be construed to be a limitation or repeal of any other power now possessed by the Town of Wagner, Marinette County.

10.0107 SEVERABILITY

- A. If any section, 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.

10.0108 REPEAL

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

10.0200 GENERAL PROVISIONS

10.0201 Jurisdiction

The jurisdiction of this Ordinance shall apply to all structures, lands, water, and air within the unincorporated limits of the Town of Wagner, Marinette County, Wisconsin.

10.0202 Compliance

- A. No structure, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended,

enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

- B. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance. The Zoning Administrator shall issue, after review, all permits required by this Ordinance and shall maintain records of all permits issued. The Zoning Administrator shall investigate all complaints, give notice of violations, issue orders to comply with the zoning ordinance, issue citations for the violation of this Ordinance and assist the town attorney in the prosecution of ordinance violators. The Zoning Administrator and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.

10.0203 Zoning/Building Permit Required

No structure (excluding temporary structures as defined in Section 10.1600) shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a Zoning/Building Permit from the Zoning Administrator. Applications for Zoning/Building Permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:

- A. Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- B. Description of the Subject Site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey or parcel of record prepared by a registered land surveyor showing the location, boundaries, dimensions, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards.
- D. Proposed Sewage Disposal Plan. In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of a private onsite waste treatment system designed in accordance with Marinette County ordinances, Chapter SPS 383 and SPS 385 of the Wisconsin Administrative Code, and other applicable laws and regulations.
- E. Proposed Water Supply Plan. In any district where municipal water treatment system is not available, the width and area of all lots shall be sufficient to permit the use of a private water system designed in accordance with all County and Town ordinances, Chapter NR 812 of the Wisconsin Administrative Code, and other applicable laws and regulations.

- F. Condominium Declaration. Any developer of land in the Town of Wagner who elects to create a condominium pursuant to Chapter 703 of the Wisconsin Statutes shall submit a copy of the Condominium Declaration, and any amendment thereto, to the Zoning Administrator, to be attached to the file copy of the Zoning/Building Permit application.
- G. Additional Information as may be required by the Town Plan Commission, or Zoning Administrator.
- H. A Zoning/Building Permit shall be granted or denied in writing by the Zoning Administrator within 30 days after application. All conditional use permits shall be granted or denied within 60 days after application, unless the time is extended by mutual consent of the applicant and the Town. The permit shall expire within six (6) months unless substantial work has commenced, and within 18 months if the structure for which the permit was issued is not substantially completed. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
- I. The Zoning/Building Permit shall be recorded by the appropriate town official and placed on file with a new fire number recorded on the official town fire map.

10.0204 Conditional Use Permit Required

See Section 10.0500.

10.0205 Sign Permit Required

See Section 10.0700.

10.0206 Temporary Uses

See Section 10.0512.

10.0207 Other Permits

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to a floodplain or shoreland/wetland permit pursuant to the Marinette County Floodplain Ordinance and the Marinette County Shoreland and Wetland Zoning Ordinance, a sanitary permit pursuant to the Marinette County Private Sewage System Ordinance, division of lands pursuant to the Marinette County Land Division and Subdivision Regulations, a reclamation permit pursuant to the Marinette County Non Metallic Mining Reclamation Ordinance and NR 135, a water use permit pursuant to Chapter 30 of the Wisconsin Statutes, Runoff Management and Construction Site Erosion Control pursuant to NR 151 and NR 152 respectively, Animal Feeding Operations pursuant to NR 243, Storm Water Discharge pursuant to NR 216, or a wetland fill permit pursuant to Section 404 of the Federal Water Pollution Act and/or a Water Quality Certification from the Wisconsin Department of Natural Resources.

10.0208 Marinette County Shoreland Wetland and Floodplain Zoning Regulations

The Town recognizes that Marinette County has adopted a Shoreland and Wetland Zoning Ordinance and a Floodplain Zoning Ordinance in compliance with Wisconsin Statutes. Accordingly, the Zoning Administrator for the Town of Wagner shall refer to Marinette County all applicants seeking Zoning/Building Permits for structures or uses which are proposed to be located or conducted within the shoreland/wetland or floodplain area subject to County regulations. If the Zoning Administrator determines that any Town Zoning/Building Permit is required for such project, the permit shall not be issued until the county permit has been issued. In a situation where the Town and County regulations conflict, the more restrictive regulations shall apply.

10.0209 Erosion Control

The Town of Wagner finds that runoff from construction sites may carry a significant amount of sediment and other pollutants to the waters of this state and the waters of the Town of Wagner.

It is the purpose of this Section to preserve natural resources; to protect the quality of the waters of the state and the Town of Wagner; and to protect and promote the health, safety, and general welfare of the people of the Town of Wagner, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, and wetlands.

Accordingly, no construction site activity shall discharge sediment and other pollutants to lakes, streams, wetlands, or adjoining properties so as to exceed or contribute to the exceeding of minimum standards set forth in applicable state or county regulations or equivalent programs including, but not limited to, Department of Commerce Uniform Dwelling Code and Commercial Building Code provisions contained within Comm. Chapter 21; Comm. Chapters 60 to Chapter 65; Comm. Chapter 101; and, Department of Natural Resources NR 216 of the Wisconsin Administrative Code.

10.0210 Site Restrictions

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town of Wagner Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which they base their conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if so desired. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability.

- A. Private Sewer and Water. In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of a

private onsite waste treatment system designed in accordance with Chapters SPS 383 and SPS 385 of the Wisconsin Administrative Code.

- B. **Public Access.** No Zoning/Building Permit shall be issued for construction unless the main body of the lot upon which the building or structure is to be erected fronts on a public street for a distance of at least 200 feet, except as provided for by Section 10.0808 *Existing Substandard Lots*.
- C. All structures shall be located on a lot; and in single-family and two-family residential districts, only one principal structure shall be located, erected, or moved onto a lot. The Town Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, parking requirements, or require a minimum separation distance between principal structures.
- D. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

10.0211 Site Plan Review and Architectural Control

See Section 10.1000.

10.0212 Use Restrictions

The following use restrictions and regulations shall apply:

- A. **Principal Uses.** Only those principal uses specified for a district, their essential services, and the following uses listed in this Section shall be permitted in that district.
- B. **Accessory Uses** and structures are permitted in any district, subject to the requirements of Section 10.0803 of this Ordinance. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations, home industries and professional home offices as defined in this Ordinance.

- C. **Conditional Uses** and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Plan Commission in accordance with Section 10.0500 of this Ordinance.
- D. **Unclassified or Unspecified Uses** may be permitted by the Plan Commission after review provided that such uses are similar in character to the principal uses permitted in the district.
- E. **Temporary Uses** such as real estate sales or rental field offices or shelters for materials and equipment used in the construction of a permanent structure, may be permitted for a period of up to one year by the Plan Commission. Temporary use permits may be renewed if the Plan Commission deems such renewal appropriate. Additional temporary conditional use permits are set forth in Section 10.0512 of this Ordinance and may be permitted as set forth in that Section.
- F. **The Accumulation, Storage or Parking** of farm, construction, or building equipment, trucks, tractors, semi-trailers, , refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, wood, brick, concrete block, or other unsightly debris which may tend to depreciate property values in the area or create a nuisance or hazard shall not be permitted on any lot or parcel of land within the Town of Wagner, except within a permitted salvage yard operated under a Conditional Use Permit, or elsewhere if completely housed and out of public view, or in accordance with Section 10.0604 of this Ordinance.
- G. **Temporary Placement of a Mobile Home** may be permitted in any district by the Zoning Administrator as temporary or emergency shelter. Emergencies justifying the placement of a mobile home shall include destruction of the permanent home on a lot by wind, fire, or other disaster. A temporary or emergency mobile home permit may be issued for a period of one year and may be renewed for one six-month period. In authorizing the temporary use permit, the Zoning Administrator shall require that the mobile home be oriented in a manner that is compatible with adjacent land uses. Appropriate landscape screening may also be required.

10.0213 Reduction or Joint Use

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

10.0214 Permit Fees

All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Zoning Administrator to help defray the cost of administration, investigation, advertising, and processing of permits and variances. A fee shall also be required for a zoning text or map

amendment, and a zoning appeal or variance. All fees shall be established by separate resolution by the Town Board, which may be amended and revised from time to time as deemed appropriate.

10.0215 Double Fee

A Double Fee shall be charged by the Town Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

10.0216 Violations

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In the case of any violation, the Town Board of Supervisors, the Zoning Administrator, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance. Violations may be enforced in Marinette County Circuit Court by a citation issued by the Zoning Administrator, law enforcement officer empowered to act in the Town of Wagner, the Town Constable, or any other designated Town of Wagner official authorized by the Town Board.

10.0217 Remedial Action

Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the Town Board, the Zoning Administrator, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

10.0218 Penalties

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$10 nor more than \$1,000 and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. Violations may be enforced in Marinette County Circuit Court or in a Municipal Court established and created by the Town of Wagner, by a citation issued by the Zoning Administrator, law enforcement officer empowered to act in the Town of Wagner, the Town Constable, or any other designated Town of Wagner official authorized by the Town Board.

10.0300 ZONING DISTRICTS

10.0301 Establishment

- A. For the Purpose of this Ordinance, the Town of Wagner is hereby divided into the following Zoning Districts:
- A-1 Agricultural / Rural Residential District
 - R-1 Single-Family / Two Family Residential District
 - R-3 Multi-Family Residential District
 - SLR Shoreline Residential District
 - B-1 Commercial Business District
 - M-1 Limited Manufacturing District
 - M-2 General Manufacturing District
 - Q-1 Quarrying District
 - IP Institutional and Park District
- B. Boundaries of these districts are hereby established as shown on the Map entitled “Zoning Map - Town of Wagner, Marinette County, Wisconsin”, which accompanies this Ordinance and is herein made a part of this Ordinance. Such boundaries shall be construed to follow: corporate limits; U. S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; unless otherwise noted on the Zoning Map.
- C. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

10.0302 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 Chairperson and Town Clerk and shall be available to the public in the office of the Town Clerk. Amendments to the Zoning Map shall take effect upon adoption by the Town Board, and the filing of proof of posting or publication thereof in the office of the Town Clerk. It shall be the duty of the Town Clerk to enter all Zoning Map amendments upon the certified copy of the Zoning Map and certify the same.

10.0303 A-1 Agricultural / Rural Residential District

The A-1 Agricultural/Rural Residential District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for dairy farming, crop production and raising of livestock. The district is further intended to accommodate both large and small farm units, including truck farming, horse farming, hobby farming, orchards, and other similar agricultural-related activity. The A1 District also accommodates rural residential land uses on moderate to large sized lots.

A. Principal Uses

1. Apiculture (beekeeping).
2. Circular driveways.
3. Community living arrangements, community-based residential facilities (CBRF) which have a capacity for 8 or fewer persons, and foster family homes, subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
4. Dairy farming, and keeping and raising of domestic stock for agribusiness, breeding, recreation or show.
5. Essential services.
6. Family day care homes.
7. Fish hatcheries and fish farming.
8. Feedlots and poultry operations except “large animal feeding operations” as defined by Chapter NR 243 of the Wisconsin Administrative Code.
9. Floriculture and plant nurseries, including wholesale greenhouses.
10. General farm related buildings including barns, silos, sheds, and storage bins.
11. Raising of grain, grass, mint, seed crops, tree fruits, nuts, berries, grapes, vegetables, and the harvesting of syrup.
12. Single-family and two family dwellings.
13. Sod farming.

B. Accessory Uses

1. Forest and game management.
2. Home occupations and professional home offices subject to the requirements of Section 10.0803.G.
3. One roadside stand not exceeding 150 square feet in floor area for farm products produced on the premises.
4. Other accessory structures and uses as specified in Section 10.0803.A through 10.0803 G.

5. Sand and gravel extraction (pits) incidental to the farm operation and not conducted as a commercial activity.

C. Conditional Uses (Also see Section 10.0500)

1. Accessory uses listed in Section 10.0803 B to be located within a street yard.
2. Airports, airstrips and landing fields.
3. Animal hospitals and veterinary services.
4. Artificial Lakes and Ponds
5. Auto body repair, engine repair as a home industry.
6. Bed and breakfast establishments.
7. Commercial boat and recreational vehicle storage.
8. Commercial day cares.
9. Cemeteries.
10. Clinics.
11. Commercial animal raising and boarding, including stables and kennels.
12. Commercial butchering.
13. Community living arrangements with capacity for nine (9) or more persons, subject to Section 60.63 of the Wisconsin Statutes.
14. Elderly housing.
15. Energy conservation uses.
16. Greenhouses, nurseries, truck farms and orchards, which have retail trade connected with the business.
17. Home industries.
18. Housing for parents or children of the farm operator and farm labor, including manufactured homes.
19. Laboratories.
20. "Large animal feeding operations" as defined by Chapter NR 243 of the Wisconsin Administrative Code.
21. Machine shops as a Home Industry.
22. Nursing homes.
23. Processing dairy products, peas, and corn.
24. Public or private schools, colleges, and universities.
25. Radio and television transmission towers.
26. Raising of fur bearing animals.

27. Recreational uses (See Section 10.0510).
28. Religious institutions.
29. Taverns and cocktail lounges.
30. Utilities.
31. Warehousing of agricultural products.
32. Wireless communication facilities (See Section 10.0509)

D. Lot Area and Width

Lots shall have a minimum area of 2.0 acres and provide not less than 87,120 square feet per dwelling unit. Lots shall be not less than 200 feet in width. Corner lots (a lot abutting two (2) or more streets at their intersection) shall provide a minimum lot width of not less than 200 feet along each street. Lots located on a cul-de-sac or curve may be reduced to not less than 66 feet in width at the street right-of-way line provided there is at least 200 feet of width at the required building setback line.

E. Building Height and Area

1. Farm structures (barns, sheds, pole buildings, etc.) shall not exceed 70 feet in height.
2. Silos and grain elevators shall not exceed 100 feet in height.
3. Dwellings and non-farm accessory structures shall not exceed 35 feet in height.
4. The total minimum floor area of a one-story dwelling shall be 720 square feet per unit. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 720 square feet.

F. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. For landlocked property (parcels that do not have public road frontage) a minimum 100 foot building setback from all property lines must be maintained.
3. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.
4. There shall be a rear yard of not less than 10 feet.
5. In the A-1 Agricultural/Rural Residential District, the maximum building coverage on an individual lot shall not exceed five percent (5%) of the lot.

10.0304 R-1 Single-Family / Two Family Residential District

The R-1 Single-Family / Two-Family Residential District is intended to provide for single-family and two family residential development served by private onsite waste treatment systems and private wells.

A. Principal Uses

1. Circular driveways.
2. Community living arrangements, community-based residential facilities (CBRF) which have a capacity for 8 or fewer persons, and foster family homes, subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
3. Essential services.
4. Family day care homes.
5. Single-family dwellings.
6. Two-Family Dwellings (Duplexes)

B. Accessory Uses

1. Kennels for no more than 3 licensed dogs.
2. Other accessory structures and uses as specified in Section 10.0803.A through 10.0803.G.

C. Conditional Uses (Also see Section 10.0500)

1. Accessory uses listed in Section 10.0803. B. that are to be located within a street yard.
2. Clinics.
3. Community living arrangements with capacity for nine (9) or more persons, subject to Section 60.63 of the Wisconsin Statutes.
4. Commercial day cares.
5. Energy Conservation uses.
6. Elderly housing.
7. Home businesses and industries.
8. Nursing homes.
9. Utilities.

D. Lot Area and Width

Lots shall have a minimum area of 2.0 acres and provide not less than 87,120 square feet per dwelling unit. Lots shall be not less than 200 feet in width at the building line. Corner lots (a lot abutting two (2) or more streets at their intersection) shall provide a minimum lot width of not less than 200 feet along each street. Lots located on a cul-de-sac or curve may be reduced to not less

than 66 feet in width at the street right-of-way line provided there is at least 200 feet of width at the required building setback line.

E. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.
3. There shall be a rear yard of not less than 10 feet.
4. In the R-1 Single-Family / Two-Family Residential District, the maximum building coverage (percentage of individual lot) shall not exceed five percent (5%) of the lot.

10.0305 R-3 Multi-Family Residential District

The R-3 Multi-Family Residential District is intended to provide for multi-family development, where such dwellings are served by a public sanitary sewerage system.

A. Principal Uses

1. Community living arrangements, community-based residential facilities (CBRF) which have a capacity for 15 or fewer persons, and foster family homes, subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
2. Essential services.
3. Family day care homes.
4. Multi-family dwellings.
5. Single-family dwellings.
6. Two-family dwellings.

B. Accessory Uses

1. Kennels for no more than 3 licensed dogs.

C. Other accessory structures and uses as specified in Section 10.0803.A through 10.0803.G.

D. Conditional Uses (Also see Section 10.0500)

1. Accessory uses listed in Section 10.0803.B to be located within a street yard.
2. Circular driveways.
3. Community-based residential facilities for 16 or more people, subject to the limitations set forth in Section 60.63 of the Wisconsin Statutes.
4. Energy conservation uses.
5. Home industries.
6. Elderly housing.
7. Manufactured/Mobile home parks (See 10.0506. H.).
8. Nursing homes.
9. Clinics.
10. Commercial day care centers
11. Utilities.

E. Lot Area and Width

Lots shall have a total minimum area of 2.0 acres and provide not less than 20,000 square feet per dwelling unit. Lots shall be not less than 200 feet in

width. Corner lots (a lot abutting 2 or more streets at their intersection) shall provide a minimum lot width of not less than 200 feet along each street. Lots located on a cul-de-sac or curve may be reduced to not less than 66 feet in width at the street right-of-way line provided there is at least 200 feet of width at the required building setback line.

F. Building Height and Area

1. No building or parts of a building shall exceed 35 feet in height.
2. The total minimum floor area of a principal structure shall be 2,000 square feet with a minimum floor area of 500 square feet per dwelling unit.

G. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.
3. There shall be a rear yard of not less than 10 feet.
4. In the R-3 Multi Family Residential District, the maximum building coverage (percentage of individual lot) shall not exceed five percent (5%) of the lot.

10.0306 SLR Shoreline Residential District

The Town recognizes that Marinette County has adopted a Shoreland-Wetland Zoning Ordinance and a Floodplain Zoning Ordinance in compliance with Wisconsin Statutes. Accordingly, the Town of Wagner shall refer to Marinette County all applicants seeking Zoning/Building Permits for structures or uses which are proposed to be located or conducted within the shoreland/wetland or floodplain area subject to County regulations. If the Town determines that a Town Zoning/Land Use Permit is required for such project, the permit shall not be issued until the county permit has been issued. In a situation where the Town and County regulations conflict, the more restrictive regulations shall apply.

The following shall apply in all SLR Districts:

A. Permitted Principal Use

1. Single family residences

B. Lot Area and Width

Lots shall have a minimum area of 1.0 acres and provide not less than 43,560 square feet per dwelling unit. Lots shall be not less than 200 feet in width. Corner lots (a lot abutting two (2) or more streets at their intersection) shall provide a minimum lot width of not less than 200 feet along each street. Lots located on a cul-de-sac or curve may be reduced to not less than 66 feet in width at the street right-of-way line provided there is at least 200 feet of width at the required building setback line.

C. Lot area for private septic system lots.

1. 60,000 sq. ft. (Menominee River above Grand Rapids Dam)
2. 30,000 sq. ft. (Menominee River from its mouth to the Grand Rapids Dam and Lake Julia and Lake Mary)

B. Minimum Floor area

The total minimum floor area of a one-story dwelling shall be 720 square feet per unit. The total minimum floor area of a two-story dwelling shall be 1,300 square feet with a minimum first floor area of 900 square feet.

10.0307 B-1 Commercial Business District

The B-1 Commercial Business District is intended to provide for the orderly and attractive grouping at appropriate locations of businesses offering a wide range of retail products and services. The character, appearance, and operation of such businesses should be compatible with surrounding uses.

A. Principal Uses

1. Animal hospitals and veterinary services.
2. Antique and collectors stores.
3. Art galleries.
4. Automotive sales and service.
5. Bakeries.
6. Bowling alleys.
7. Building supply stores excluding lumber yards.
8. Circular driveways.
9. Clinics.
10. Commercial boat and recreational vehicle storage.
11. Confectioneries, soda fountains, and ice cream stores.
12. Delicatessens.
13. Drive in restaurants.
14. Electronic equipment sales, service, and repair.
15. Essential services.
16. Financial institutions, including drive-in facilities.
17. Florists.
18. Garden centers.
19. Grocery stores and specialty food stores.
20. Gasoline service stations provided that all service islands and pumps shall meet the setback requirements.
21. Interior decorators.
22. Offices.
23. Motels and hotels.
24. Parking lots and structures.
25. Personal services.
26. Photography and art studios

27. Physical fitness centers
28. Publishing houses.
29. Radio and television broadcast studios, not including transmitting towers.
30. Single-family residence (living quarters) at or above the first floor and in conformance with this Ordinance.
31. Restaurants, including drive-in restaurants.
32. Retail establishments.
33. Self-service laundry and dry-cleaning establishments.
34. Self-service storage facilities (mini-warehouses) provided that no perishable products may be stored; no flammable or explosive materials may be stored; and no sale of merchandise is conducted from a mini-warehouse.
35. Taverns and cocktail lounges.
36. Theaters.

C. Accessory Uses

1. Accessory structures and uses as specified in Section 10.0803.A through 10.0803.F.
2. Garages used for storage of vehicles used in conjunction with the operation of a business.
3. Off-street parking and loading areas.
4. Rental apartments on a non-ground floor provided there is a minimum floor area of 500 square feet for a one-bedroom apartment and 750 square feet for a two-bedroom or larger apartment.
5. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.

D. Conditional Uses (Also see Section 10.0500)

1. Adult-oriented uses.
2. Commercial animal raising and boarding including stables and kennels.
3. Commercial day cares.
4. Drive-in restaurants.
5. Energy conservation uses.
6. Funeral homes and crematoriums.
7. Greenhouses, nurseries, truck farms, and orchards, which have retail trade connected with the business.

8. Elderly housing.
9. Nursing homes.
10. Commercial animal raising and boarding, including stables and kennels.
11. Commercial day care centers.
12. Radio and television transmission towers.
13. Recreational uses (See Section 10.0510).
14. Utilities.
15. Wireless communication facilities (see Section 10.0509).

E. Lot Area and Width

1. Lots shall have a minimum area of 2.0 acres and shall be not less than 200 feet in width. Corner lots shall provide a lot width of not less than 200 feet for each side fronting on a street.
2. Individual business sites in the B-1 District shall provide sufficient area for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.
3. Shopping centers shall contain a minimum area of 5 acres and shall be not less than 300 feet in width.

F. Building Height

No building or parts of a building shall exceed 35 feet in height.

G. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.
3. There shall be a rear yard of not less than 10 feet.

H. Plans and Specifications Pursuant to Section 10.1000 of the Ordinance to be submitted to Town Plan Commission.

To encourage a business environment that is compatible with the rural character of the Town, Zoning/Building Permits for permitted uses in the B-1 Commercial Business District shall not be issued without review and approval of the Town of Wagner Plan Commission. Review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization.

10.0308 M-1 Limited Manufacturing District

The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size, which on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors.

A. Principal Uses

1. Custom manufacturing.
2. Commercial greenhouses.
3. Electrotyping and stereotyping.
4. Essential services.
5. Food locker plants.
6. Leather fabrication, not including tanning.
7. Light manufacturing.
8. Machine shops.
9. Pharmaceutical processing.
10. Rice milling.
11. Warehousing.
12. Wholesaling.

B. Accessory Uses

1. Off-street parking and loading areas.
2. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operation.
3. Other accessory structures and uses as specified in Section 10.0803.A through 10.0803.F.

C. Conditional Uses (Also see Section 10.0500)

1. Airports, airstrips, and landing fields.
2. Energy conservation uses.
3. Laboratories.
4. Lumber yards.
5. Public passenger transportation terminals.
6. Radio and television transmission towers.
7. Recreational uses (See Section 10.0510).
8. Truck and other transportation terminals.

9. Utilities.

10. Wireless communication facilities (See Section 10.0509).

D. Lot Area and Width

Lots shall have a minimum area of 2.0 acres and shall be not less than 200 feet in width. Corner lots shall provide a minimum lot width of not less than 200 feet for each side fronting on a street.

E. Building Height

No principal building or parts of a principal building shall exceed 50 feet in height.

F. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.

2. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.

3. There shall be a rear yard of not less than 10 feet.

G. Plans and Specifications Pursuant to Section 10.1000 of the Ordinance to be submitted to Plan Commission

To encourage an industrial environment that is compatible with the rural character of the Town, Zoning/Building Permits for permitted uses in the M-1 Limited Manufacturing District shall not be issued without review and approval of the Town of Wagner Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization.

10.0309 M-2 General Manufacturing District

The M-2 General Manufacturing District is intended to provide for manufacturing and industrial development of a more general and less restrictive nature than the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility. The M-2 District should not normally abut directly upon residential districts.

A. Principal Uses

1. Those uses permitted as principal uses in the M-1 Limited Manufacturing District.
2. Auto body repair, engine repair.
3. Automobile wrecking yard.
4. Coating, engraving, and allied services.
5. Essential services.
6. Heavy manufacturing.
7. Lumber yards.
8. Non-flammable gases and liquids storage, not to exceed 50,000 gallons.
9. Non-hazardous chemical manufacturing, processing, or use.

B. Accessory Uses

1. Garages used for storage of vehicles used in conjunction with the operation of a business.
2. Off-street parking and loading areas.
3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operation.
4. Other accessory structures and uses as specified in Section 10.0803.A through 10.0803.F.

C. Conditional Uses (Also see Section 10.0500)

1. Airports, airstrips, and landing fields.
2. Animal reduction facilities.
3. Commercial butchering.
4. Energy conservation uses.
5. Laboratories.
6. Landfills, disposal areas, and incinerators.

7. Manufacturing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticides, lampblack, poison, pulp, pyroxlin, and radium.
8. Processing of dairy products, and vegetables.
9. Processing of ammonia, asbestos, asphalt, cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, lampblack, offal, poison, pulp, pyroxlin and radioactive materials.
10. Public passenger transportation terminals.
11. Radio and television transmission towers.
12. Recreational uses (See Section 10.0510).
13. Sewage treatment plants.
14. Storage of bulk fertilizer, explosives, gas, grease and radioactive materials.
15. Transportation terminals.
16. Utilities.
17. Wireless communication facilities (See Section 10.0509).

D. Lot Area and Width

Lots shall have a minimum area of 2.0 acres and shall be not less than 200 feet in width. Corner lots shall provide a minimum lot width of not less than 200 feet for each side fronting on a street.

E. Building Height

No principal building or parts of a principal building shall exceed 50 feet in height.

F. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. There shall be a minimum 25-foot side yard setback on each side of all principal and accessory structures.
3. There shall be a rear yard of not less than 10 feet.

G. Plans and Specifications Pursuant to Section 10.1000 of the Ordinance to be submitted to Plan Commission

To encourage an industrial environment that is compatible with the rural character of the Town, Zoning/Building Permits for permitted uses in the M-2 General Manufacturing District shall not be issued without review and approval

of the Town of Wagner Plan Commission. Said review and approval shall be concerned with lot size, general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization.

10.0310 Q-1 Quarrying District

The Q-1 Quarrying District is intended to provide for the conduct of quarries limited to extraction of onsite materials, to provide for related operations, and for the proper restoration of the quarried areas. These regulations provide for the restoration of quarries and extractive areas in a manner that will not deteriorate the natural environment, and are intended to be utilized in existing and planned quarry and extractive use areas.

A. Principal Use

1. Essential services.

B. Accessory Uses

Accessory uses in the Q-1 District shall require a conditional use permit and shall be limited to those accessory uses listed in Subsection 10.0310.C below.

C. Conditional Uses (Also see Section 10.0500)

1. Aggregate, ready-mix, and asphalt plants, when accessory to active quarrying operations.
2. Energy conservation uses.
3. Manufacture of concrete building blocks or other similar concrete products, when accessory to quarrying operations.
4. Peat and soil removal.
5. Processing, crushing, refining, or washing of gravel, mineral ore, sand, or stone, when accessory to quarrying operations.
6. Quarrying of gravel, mineral ore, sand, or stone.
7. Radio and television transmission towers.
8. Recreational uses (See Section 10.0510).
9. Stockpiling of gravel, mineral ore, sand, or stone, when accessory to quarrying operations.
10. Utilities.
11. Wireless communication facilities (See Section 10.0509).
12. The following uses where accessory to a conditional use:
 - (a) Garages for the storage of vehicles.
 - (b) Ground-mounted and building-mounted satellite dish and terrestrial antennas.
 - (c) Maintenance buildings and weighing scales.

(d) Off street parking and loading areas, provided they are properly screened, offices, storage, and power supply uses and structures.

(e) Processing of mineral ore when accessory to quarrying operations.

D. Lot Area and Width

1. Lots shall be a minimum of 3 acres in area.
2. Lots shall not be less than 250 feet in width.

E. Yards

1. No quarrying activities, crushing or washing operation or material stockpile shall be located closer than 200 feet to any property line.
2. No building or parking area shall be located closer than 100 feet to a road centerline or 50 feet to any other property.
3. No quarrying activity, crushing or washing operation, material stockpile, building, or parking area shall be located closer than 75 feet from the ordinary highwater mark of any navigable body of water.

F. Building Height

No building or structure, or parts of a building or structure shall exceed 70 feet in height.

G. Operation Plan Required

Each applicant for a conditional use in the Q-1 District shall submit an operation plan for approval by the Town Plan Commission. The operation plan shall specify:

1. A timetable for operation of the quarry, including the date on which the quarrying, extractive, or other operation will begin and the planned date of the completion of the operation.
2. A phasing plan showing the location and timing of all proposed phases.
3. Hours of operation and days of operation for the quarrying, extractive, or other operation.
4. The means by which noise, dust, and other potential nuisances will be controlled.
5. The means by which the applicant will control stormwater runoff and erosion to protect watersheds and groundwater aquifers.
6. The location, height, and type of all proposed fences.
7. All machinery and equipment to be used and/or stored during the quarrying, extractive, or other operation, and the location thereof.
8. A transportation plan identifying the mode of transportation to be used, the size and types of vehicles to be used, the number and frequency of

trips to and from the site, and the routes to be used by trucks or locomotives.

9. The location and type of landscaping to be used to screen the quarrying operation from adjacent land uses and public rights-of-way.
10. Other information as required by the Town Plan Commission.

H. Restoration Requirements

In order to ensure that the area of a quarrying or related operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall submit to the Town Plan Commission the approved plan for such restoration in accordance with the requirements of Chapter 20 Marinette County Non-Metallic Mining Ordinance.

10.0311 IP Institutional and Park District

The IP Institutional and Park District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas that are under public or public-related ownership and where the use for public purpose is anticipated to be permanent. The IP District is intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the Town of Wagner can be met without undue disturbance of natural resources and adjacent uses.

A. Principal Uses

1. Botanical gardens and arboretums.
2. Cemeteries.
3. Circular driveways.
4. Essential services.
5. Exhibition halls.
6. Fairgrounds.
7. Funeral homes and crematoriums.
8. Golf courses without country club facilities.
9. Hiking, biking, and nature trails.
10. Historic monuments or sites.
11. Hospitals and clinics.
12. Libraries, community centers, museums, and public art galleries.
13. Nursing homes.
14. Outdoor skating rinks.
15. Parks and playgrounds.
16. Picnicking areas.

17. Playfields or athletic fields.
18. Public art galleries.
19. Public or private schools, colleges, and universities.
20. Public administrative offices and public service buildings, including fire and police stations.
21. Public utility offices.
22. Religious institutions.
23. Sanatoriums. Principal Uses
24. Sledding, skiing, or tobogganing areas.
25. Tennis courts.

B. Accessory Uses

1. Accessory structures and uses as specified in Section 10.0803.A through 10.0803.F.
2. Garages for storage of vehicles used in conjunction with the operation of a permitted use.
3. Residential quarters for caretakers or clergy.
4. Service buildings and facilities normally accessory to a principal use.

C. Conditional Uses (Also see Section 10.0500)

1. All Terrain Vehicle (ATV) Parks and Tracks
2. Conservatories.
3. Energy conservation uses.
4. Gymnasiums.
5. Music hall.
6. Outdoor skating rinks.
7. Paintball Parks
8. Public swimming pools.
9. Tennis courts.
10. Sewage treatment plants.
11. Utilities.

D. Lot Area and Width

Lots shall have a minimum area of 2.0 acres and shall be not less than 200 feet in width. Corner lots shall provide a lot width of not less than 200 feet for each side fronting on a street.

E. Building Height and Area

1. No building or parts of a building shall exceed 50 feet in height.
2. The total minimum floor area of a dwelling shall be 720 square feet for a one-story dwelling and 1,300 square feet for a multi-story dwelling with a minimum first floor area of 720 square feet.

F. Yards

1. A minimum street yard (building setback) of 100 feet from the road centerline or 50 feet from the right-of-way line (whichever is greater) of Class A Roads and 75 feet from the centerline or 42 feet from the right-of-way line (whichever is greater) of Class B Roads, shall be required for all platted and unplatted lots.
2. There shall be a side yard on each side of all principal and accessory structures. The minimum single side yard shall be 25 feet and there shall be an aggregate side yard of not less than 25 feet.
3. There shall be a rear yard of not less than 10 feet.

G. Plans and Specifications Pursuant to Section 10.1000 of the Ordinance to be submitted to The Plan Commission

To encourage an institutional environment that is compatible with the rural character of the Town, Zoning/Building Permits for uses in the IP District shall not be issued without review and approval of the Town of Wagner Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization.

10.0400 PARTICULAR USE REQUIREMENTS

10.0401 Purpose

The purpose of these requirements is to minimize potential negative impacts from certain uses and to promote compatibility between particular uses and surrounding uses.

10.0402 Applicability

In addition to complying with other regulations established in this Ordinance, these requirements must be met for each specific use. These requirements shall override any requirements which are described elsewhere in this ordinance for the Zoning Districts, but only to the extent that they conflict with such requirements.

10.0403 Mobile Homes

This Section of the Zoning Ordinance provides for the location and provisions thereof in the placement of Mobile Homes in the Town of Wagner.

A. Definition

"MOBILE HOME" means a vehicle manufactured or assembled with a date of 20 years or newer. With a 'Wisconsin State Home Certified Home Inspection Certificate'. Designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid un-collapsible construction, which has an overall length in excess of 45 feet. Mobile home includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

B. Mobile Homes, as defined above, may be permitted provided that:

1. A mobile home shall be equipped with a lavatory, bathtub (or shower), and a water closet.
2. Minimum Height- The above shall not be greater than 80 percent of the average width.
3. All mobile homes shall comply with the minimum regulations set forth in all Districts and any legally existing mobile home shall be treated as single family, prefabricated housing.
4. After placement, a mobile home shall be skirted, and the tongue shall be covered or removed as to take on the appearance of a conventional home.
5. Mobile homes shall be placed on firm foundations.
6. When mobile homes are not connected to a public water supply or public sewage system, they shall conform to the requirements of a single family residence for the respective District or shore land, whichever applies.

- C. All mobile homes shall comply with regulations set forth in the Zoning District that they are located, Town of Wagner Zoning Ordinance.
- D. All mobile homes shall comply with the Marinette County Sanitary Ordinance Sections.
- E. Any mobile home moved to or relocated in the Town of Wagner after the effective date of this Ordinance are permitted only in manufactured/mobile home parks pursuant to 10.0506. H. 1 through 17.
 - 1. Mobile homes must be skirted within thirty (30) days and comply as follows:
 - (a) Skirting of the lower area below the floor level shall be required on all mobile home units in manufactured/mobile home parks and those presently parked within the Town of Wagner.
 - (b) The type of skirting shall be of such material and color that it will blend with the original color, material, fabric and/or design of the original mobile home itself, except:
 - (c) A permanent foundation, wall or basement may be erected to support any mobile home unit in lieu of the above requirements for skirting.

10.0404 Manufactured Home

- A. Definition

"Manufactured Home" means a structure certified and labeled as a manufactured home under 42 U.S.C. 5401 through 5425, which, when placed on a site:

 - 1. Is set on an enclosed foundation in accordance with Sec. 70.043 (1), Stats., and sub-chapters III, IV and V of ch. ILHR 21, Wis. Admin. Code, or is set on a comparable enclosed foundation system approved by the Zoning Administrator. The Zoning Administrator may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - 2. Is installed in accordance with the manufacturer's instructions.
 - 3. Is properly connected to utilities.
- B. All manufactured homes shall comply with regulations set forth in the District that they are located. Manufactured homes are permitted in the same Districts as single family and two family dwellings.
- C. Parking of manufactured homes outside of a mobile home park for occupancy.
 - 1. No person shall park a manufactured home outside of a mobile home park for occupancy or change its location within the Town without first obtaining a zoning/building permit from the Town. Such permit may be obtained by application from the Zoning Administrator.

- D. All manufactured homes moved into the Town of Wagner after the adoption of this ordinance shall abide by the following requirements:
1. The manufactured date of all manufactured homes shall be 20 years or newer. With a 'Wisconsin State Home Certified Home Inspection Certificate'. Must meet HUD requirements.
 2. All previously occupied manufactured homes must be inspected by a State of Wisconsin Certified Home Inspector using Town of Wagner supplied forms or forms approved by the Zoning Administrator.
 3. The Town Zoning Administrator can approve and issue a permit if all elements on the inspection report are satisfactory.
 4. If a problem was found and corrected within six (6) months, and a second inspection verified the correction, a permit shall be issued by the Zoning Administrator.
 - (a) No construction of any additions, windbreaks, carports, permanent garages, utility sheds or any other improvements or additions to a mobile or manufactured home shall be commenced without first obtaining a zoning/building permit as provided for in the Town of Wagner ordinance.
 - (b) No converted vehicles such as but not limited to vans, semi-trailers or school buses are to be considered manufactured home units within the scope of this ordinance. The parking of such vehicles within the Town of Wagner is strictly prohibited. Likewise, no manufactured home is to be utilized as a storage shed and permits will not be issued for such use.
 - (c) A sanitary permit or privy permit from Marinette County shall be required before being granted a zoning/building permit for the placement of a manufactured home in the Town of Wagner.
 - (d) All existing manufactured homes which do not conform to the standards set forth above at the time of adoption of this ordinance shall not be affected by said conditions except:
 - (1) That said non-conforming manufactured home may not be moved to another location on the parcel of land on which it is located at the time of adoption of this Ordinance (or to any other parcel of land within the Town of Wagner).
 - (2) Except as a Conditional Use in the A1 – Agricultural/Rural Residential District (Section 10.0303 C (17)) only one manufactured home unit shall be permitted on a recorded tract of land in the Town of Wagner. Any owner of a single recorded tract of land on which there are two or more manufactured home units shall be deemed to be operating a mobile home park and shall comply with all of the

requirements of the Town of Wagner mobile homes and manufactured/mobile home parks requirements.

- (3) Individual manufactured home units set up on a parcel of land in the Town of Wagner are required to be installed in accordance to applicable state statutes and regulations, Department of Commerce Chapter 27 guidelines, and the Town of Wagner zoning ordinance.
- (4) Mobile home dealers must be registered with the Town of Wagner before transporting any manufactured homes into the Town and must notify the Town Zoning Administrator of any manufactured homes intended to be moved into the Town if no zoning/building permit has been presented prior to the date of delivery.
- (5) Mobile home dealers or others who violate this ordinance by moving either conforming or non-conforming manufactured homes into the town without prior notice and authorization shall, on the first violation be fined one thousand (\$1,000.00) dollars and after two violations will no longer be allowed to transport mobile homes into the Town.

E. Parking of recreational vehicles outside of a mobile home park:

1. Within the scope of this ordinance, a recreational vehicle means a vehicle having an overall length of thirty-five (35) feet or less and a body width of eight (8) feet or less primarily designed as temporary living quarters for recreational, camping or travel use, which has its own mode of power or is mounted or drawn by another vehicle. The basic terms for such vehicles are: travel trailer, camping trailer, truck camper and motor home.
2. For the purpose of this ordinance, a recreational vehicle shall be considered to be a temporary structure.
3. The wheels or any similar transporting devices of any recreational vehicle shall not be removed except for repairs, nor shall any such recreational vehicle be otherwise fixed to the ground in any manner that would prevent ready removal.
4. Recreational vehicles may not be permanently attached to a private sewage system.
5. Recreational vehicles must be licensed, yearly, for road travel.
6. Penalty for violation of this ordinance shall be fifty (\$50.00) dollars and each day of violation may be considered a separate offense.

10.0405 Airport Regulations

Except for field crops and fences under five feet high, the maximum height of any object located within 500 feet of either side of the centerline of a landing strip, and extended to a distance of two miles from the end of the runway shall be no higher than 1/100 of the distance of the object to the landing strip

10.0406 Adult Entertainment Facilities

- A. No Adult Entertainment Facilities shall be located:
1. Within a Residential Zoning District
 2. Within 1,320 feet of an existing Adult Entertainment Facilities.
 3. Within 1,320 feet of any residential area.
 4. Within 1,320 feet of any pre-existing school, church, or day care center.
 5. Within 1,320 feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.
 6. Within 1,320 feet of a public park
 7. Within 1,320 feet of a property or Historic District listed in the State Register of Historic Places or in the National Register of Historic Places.
- B. For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment, to the nearest property line of the above listed uses.
- C. No portable signs, window displays, or temporary signs shall be permitted on the premises.

10.0407 Agricultural Uses Requirements

- A. Any agricultural use involving animals shall provide sufficient shelter and open space to meet or exceed any standards set by the United States Department of Agriculture and/or the Wisconsin Department of Natural Resources.
- B. Barnyards, feed lots, and farm structures housing animals shall be located at least 100 feet from navigable water and shall be located so that manure will not drain into navigable water.
- C. Barnyards, feed lots, and farm structures housing animals, shall be located at least 500 feet or a distance to be determined by the Plan Commission from any dwelling unit other than that of the animal keeper's dwelling unit.

10.0500 CONDITIONAL USES

10.0501 Permits

The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such

conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the Town.

10.0502 Application

Applications for conditional use permits shall be made in duplicate to the Town Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where pertinent and necessary for proper review by the Plan Commission:

- A. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- B. Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey prepared by a registered land surveyor or a location sketch drawn to scale showing all the information required under Section 10.0203 for a Zoning/Building Permit and, in addition, the following: mean and ordinary high water marks on or within 40 feet of the subject premises, and existing and proposed landscaping.
- D. Additional Information as may be required by the Town Plan Commission or the Town Zoning Administrator.

10.0503 Review and Approval

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. In addition:

- A. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.
- B. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic and highway access shall be required of all conditional uses. Variances shall only be granted as provided in Section 10.1305 of this Ordinance.
- C. Public Hearing. The Town Plan Commission shall hold a public hearing on each application giving public notice as specified in Section 10.1501 of the Ordinance. The Plan Commission may subsequently issue the conditional use

permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application.

- D. Amendments to Conditional Use Permit. Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. Enlargement of a conditional use shall be considered as an amendment. The process for amending a conditional use permit shall generally follow the procedures for granting a conditional use permit as set forth in Section 10.0501.
- E. Revocation of a Conditional Use Permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the Plan Commission, or should the use, or characteristics of the use be changed without prior approval by the Plan Commission the Conditional Use Permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a conditional use permit as set forth in Section 10.0501.

10.0504 Public, Semipublic, and Institutional Uses

The following public and semipublic uses shall be conditional uses and may be permitted as specified.

- A. Airports, Airstrips, and Landing Fields, including private landing fields, provided the site is not less than 20 acres in area.
- B. Utilities in all districts provided all principal structures and uses are not less than 50 feet from any residential district lot line.
- C. Public, Parochial, and Private elementary and secondary schools in any district provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any lot line.
- D. Religious Institutions in any district provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet away from any lot line.

10.0505 Agricultural Uses

The following agricultural and agricultural related uses shall be conditional uses and may be permitted as specified:

- A. Agricultural Warehousing.
- B. Animal Hospitals and veterinary services provided that no structure or animal enclosure shall be located closer than 100 feet to a property boundary.
- C. Boarding Stables provided that confined housing of horses shall be located not closer than 100 feet to a residential district boundary or a navigable body of water.

- D. Commercial Boat and Commercial Recreational Storage provided that the storage is in a completely enclosed structure.
- E. Commercial Butchering of livestock; the commercial production of eggs; and the hatching, raising, fattening, or butchering of fowl.
- F. Commercial Kennels provided that no structure or animal enclosure shall be located closer than 100 feet to a property boundary.
- G. Commercial Raising, propagation, or boarding of animals, such as deer, elk, dogs, cats, mink, rabbits.
- H. Housing for Farm Laborers, and for seasonal and migratory farm workers.
- I. Large animal feeding operations as defined by Chapter NR 243 of the Wisconsin Administrative Code.

10.0506 Residential Uses

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- A. Accessory Structures listed in 10.0803 (B) may be located in any Agricultural or Residential District provided the accessory structure complies with the minimum street yard (setback) required for a principal structure. The Plan Commission may require a greater setback or may require the accessory use be screened.
- B. Bed and Breakfast Establishments in the A-1 and the R-1 Districts provided that no more than 4 bedrooms are rented; that dwellings being considered for conversion to bed and breakfast establishments shall exhibit unique architectural or historic characteristics; that adequate off-street parking is provided; and that any permit required by Section HFS 197.04 of the Wisconsin Administrative Code has been secured. One exterior advertising sign, not exceeding 24 square feet in area, may be erected on the premises.
- C. Circular Driveways on residential lots fronting on land access streets. The two ingress/egress points shall be separated by a minimum distance of 30 feet, and the edge of the driveway at the point where it intersects with the street shall be located no closer than 15 feet from an adjoining property line. Teardrop-shaped driveways with one ingress/egress point do not require a conditional use permit. Circular driveways shall be prohibited on residential lots fronting on arterial streets and highways and collector streets.
- D. Community Living Arrangements and Community-Based Residential Facilities (CBRF) which have a capacity for 9 or more persons in the R-1 and R-2 Districts.
- E. Community Living Arrangements and Community-Based Residential Facilities (CBRF) which have a capacity for 16 or more persons in the R-3 District.
- F. Home Industries in the A-1 District or any residential district. A home industry is similar to a home occupation and shall generally be limited by the standards

for home occupations set forth in Section 10.0803.G. The Plan Commission may, however, permit the conduct of a home industry in an accessory building.

The Plan Commission may further permit the assembly and manufacturing of small-scale piecework or the use of non-household appliances and tools when it is deemed not to be disruptive to the neighborhood.

- G. Housing for the Elderly and Community-Based Residential Facilities (CBRF) in the R-3 Multi-Family Residential District, the IP District, and the B-1 and B-2 Districts provided that the density of such housing shall not exceed 6 units per net acre; and provided that there shall be a minimum living area of 500 square feet for a one-bedroom dwelling unit and a minimum living area of 750 square feet for a two-bedroom or larger dwelling unit.
- H. Manufactured/Mobile Home Parks in the R-3 District provided that:
 - 1. Minimum park size shall be 10 acres.
 - 2. Minimum park width shall be 330 feet.
 - 3. Maximum density of mobile home sites shall be 6 per acre.
 - 4. Minimum open space provided shall be 20 percent of the development area, exclusive of streets.
 - 5. Minimum lot area for each single-wide mobile home shall be 5,000 square feet. The mobile home lot shall be a minimum of 50 feet in width.
 - 6. Minimum lot area for a double-wide mobile home shall be 6,000 square feet. The mobile home lot shall be a minimum of 60 feet in width.
 - 7. Minimum setback for a mobile home park shall be 83 feet from the center line of a public street or roadway.
 - 8. Minimum distance between mobile home units and all other exterior park lot lines shall be 50 feet.
 - 9. Minimum distance between mobile home and service road shall be 20 feet.
 - 10. Minimum distance between mobile homes shall be 20 feet.
 - 11. All drives, parking areas, and walkways shall be surfaced with dust-free material. There shall be 2 parking spaces for each mobile home.
 - 12. Laundries, washrooms, recreation rooms, maintenance equipment storage, and an office may be permitted by the Town Board as accessory uses.
 - 13. Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by either:
 - (a) A temporary planting of fast-growing material, capable of reaching a height of 10 feet or more.

- (b) A permanent evergreen planting, the individual trees to be of such a number and so arranged that within 10 years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.
- 14. All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
- 15. All mobile homes shall be skirted to conceal the chassis.
- 16. All accessory structures must meet the requirements of Section 10.0803 of this ordinance.
- 17. No mobile home site shall be rented for a period of less than 30 days.
- I. Nursing Homes, Clinics and Commercial Children's Day Care Centers in any business or residential district provided that all principal structures and uses are not less than 50 feet from any lot line.

10.0507 Business Uses

The following business uses shall be conditional uses and may be permitted as specified:

A. Adult-Oriented Uses

The Town Board finds that Adult-Oriented Uses require special zoning restrictions in order to protect and preserve the health, safety, and welfare of the Town. In recognition of the protection afforded to the citizens under the 1st and 14th Amendments, it is not the intent of this subsection to inhibit freedom of speech or the press, but rather to restrict the location of defined materials and activities consistent with the Town's interest in the present and future character of its community development. Accordingly, adult-oriented uses are permitted in the B-2 Highway Commercial District, subject to the following:

- 1. No adult-oriented establishment or use shall be located within 1,320 feet of any public, parochial, or private school, religious institution, funeral parlor or crematorium, day care center, residence, public park, other adult-oriented establishment or use, or an establishment holding an alcoholic beverage license. The above-noted distance shall be measured in a straight line without regard to intervening structures or objects, from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult-oriented establishment or use to the nearest point of the parcel of property or land use district boundary from which the proposed land use is to be separated.
- 2. Advertisements, displays, pictures, or other promotional materials which are sexual in nature shall not be shown or exhibited on the premises in a manner which makes them visible from pedestrian ways or other public areas. All points of access into such establishments shall be located, constructed, covered, or screened in a manner that will prevent a view into the interior from any public area.

3. All adult-oriented establishments and uses shall comply with all regulations and requirements of this Zoning Ordinance and must comply with all provisions of the zoning district in which the establishment is located. Said establishment and use shall also comply with all other applicable provisions of the Town of Wagner Code of Ordinances.
- B. Drive-In Establishments serving food or beverages for consumption outside the structure in the B-1 or B-2 Districts.
- C. Funeral Homes and crematoriums in the B-1 or B-2 Districts provided all principal structures and uses are not less than 50 feet from any lot line.

10.0508 Manufacturing Uses

The following manufacturing uses shall be conditional uses and may be permitted as specified:

- A. Commercial Animal Reduction Facilities, forges, foundries, slaughterhouses, stockyards, and tanneries in the M-2 District.
- B. Landfills, Disposal Areas, Incinerators, salvage yards and sewage disposal and treatment plants in the M-2 District.
- C. Lumber Yards and building supply yards in the M-1 and M-2 Districts.
- D. Manufacturing of Ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticide, lampblack, poison, pulp, pyroxylin, radium, or similar substances in the M-2 District.
- E. Processing of Ammonia, asbestos, asphalt, cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticides, lampblack, offal, poison, pulp, pyroxylin, radioactive materials, or similar substances in the M-2 District.
- F. Radio and Television Transmission Towers in any Agricultural, Business, or Manufacturing District.
- G. Storage of Bulk Fertilizer, explosives, gasoline up to 50,000 gallons, grease, and radioactive materials in the M-2 District. Storage of gasoline in excess of 50,000 gallons is prohibited.
- H. Transportation Terminals, and truck terminals and freight forwarding services in the M-1 and M-2 Districts.

10.0509 Wireless Communication Facilities

The intent of this regulation is to provide for the establishment and/or expansion of wireless telecommunication services within the Town while protecting rural residential property and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. More specifically this regulation has been developed in order to maximize use of existing and approved towers and other structures to accommodate new antennas and

transmitters in order to reduce the number of communication towers needed to serve the community;

- A. Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communication towers needed to serve the community;
- B. Encourage providers to co-locate their facilities on a single tower;
- C. Minimize the location of facilities in visually sensitive areas;
- D. Encourage creative design measures to camouflage facilities;
- E. Protect residential areas from potential adverse impacts of communication towers;
- F. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- G. Wireless communication facilities may be permitted as conditional uses in the A-1, B-1, B-2, M-1, and M-2 Districts provided that the following information, requirements, and standards shall apply:
 - 1. Applications for wireless communication facilities shall include the following information:
 - (a) A plat of survey, or site plan drawn to scale, showing the exact location of the facility and any associated equipment.
 - (b) A description of the telecommunication service to be provided by the facility.
 - (c) An indication as to whether the facility is designed to accommodate the equipment of additional carriers.
 - (d) Approval from a registered professional engineer familiar with the requirements of wireless communication structures of new towers or appurtenances to be placed on buildings or to be ground mounted, and certification that the facility complies with applicable building and electrical codes and Electronic Industries Alliance and Telecommunications Industry Association standards.
 - (e) A photo simulation that illustrates the appearance of the site once the facility has been constructed. Photos shall be taken from any adjoining street and from any adjacent residential zoning districts from which the facility will be visible. Elevation drawings shall be provided for wall and roof-mounted facilities for each side of the building from which the antennas or equipment will be visible.
 - (f) A description of the height, material, and color of the facility, and associated accessory equipment, as well as a description of how the accessory equipment will be landscaped, screened, and secured.

- (g) Evidence of compliance with pertinent FCC regulations and federal requirements concerning radio-frequency emissions.
 - (h) A copy of the Federal Aviation Administration (FAA) and Wisconsin Department of Transportation, Division of Aeronautics application, if required, or a written statement signed by the applicant that such approval is not required.
 - (i) A copy of the Wisconsin Department of Commerce (COMM) application, if required, or a written statement explaining why COMM approval is not required.
 - (j) A statement from the building/property owner indicating that they consent to the placement of the wireless communication facility on the site, and that the lease does not preclude co-location.
 - (k) Any other applicable information necessary to evaluate the request, as determined by the Town.
- 2. Co-location of equipment by various carriers is encouraged. No facility owner or operator shall unfairly exclude a telecommunications competitor from using the same facility or location. Any such exclusion shall be based upon technical, structural, or other objective reasons. If co-location is not feasible, the applicant shall provide sufficient reason and documentation of why it is not feasible.
 - 3. Freestanding wireless communication facilities shall be subject to the height limitations of the zoning district in which they are located. Requests for freestanding facilities that are proposed to be constructed in excess of the maximum height allowed in the zoning district shall be considered when accompanied by a statement which justifies the need for the proposed height.
 - 4. Roof and wall mounted antennas, support structures, and screening devices shall not exceed the highest point of the building upon which they are mounted by more than 7 feet. Whip type antennae may extend 15 feet from the highest point of the building. All roof, wall, and whip antennas, and required equipment shall comply with the height requirement for the zoning district in which they are located. Requests to exceed the maximum height allowed by the zoning district shall be considered when accompanied by a justification statement.
 - 5. Freestanding wireless communication facilities shall be located no closer than a distance equal to 5 times their height from any property zoned R-1, R-2, R-3, or R-4. This distance shall be measured in a straight line from the boundary line of the residential zone to the proposed tower location. Stealth facilities shall be exempt from this requirement. Any equipment associated with wireless communications facilities shall meet the required setbacks for the zoning district in which they are located.

6. The minimum front, side, and rear yard setbacks for freestanding wireless communication facilities shall be a distance equal to the height of the freestanding facility.
7. Wireless communication facilities may be attached to existing utility infrastructure (i.e., electrical transmission poles, street light standards, and telephone poles) located within a public or utility right-of-way or easement, or constructed within the right-of-way or easement, provided the following requirements are met:
 - (a) The antennae do not exceed the height of the existing utility infrastructure by more than 4 feet.
 - (b) The facilities visually resemble other vertical utility infrastructure along the same street or highway.
 - (c) The applicant submits written authorization from the owner of the existing utilities and the right-of-way or easement with the application.
8. Freestanding wireless communication facilities shall be lighted as required by the Federal Aviation Administration (FAA), the Wisconsin Department of Transportation Bureau of Aeronautics or other federal or state regulatory agencies.
9. Stealth wireless communication facilities and associated equipment are preferred and encouraged in instances where a freestanding facility is necessary.
10. Carriers shall notify the Town when they place the FCC on notice that a specific facility is being discontinued. Antennas or support structures and equipment not in use for 6 months for wireless communication purposes shall be removed by the facility owner. The Town may require the posting of a bond or other financial guarantee adequate to ensure removal of the facility at no cost to the Town.

10.0510 Recreational Uses

The following recreational facilities and uses shall be conditional uses and may be permitted in all Districts except R-1, R-2, and R-3 Residential Districts; provided that the lot area is a minimum of 2 acres and that all structures are not less than 50 feet from a lot line:

- A. Athletic fields.
- B. Archery ranges.
- C. Skate board parks.
- D. Campgrounds.
- E. Conservatories.
- F. Driving ranges and miniature golfing.

- G. Firearm ranges.
- H. Golf courses with country club facilities.
- I. Go-kart tracks.
- J. Gymnasiums.
- K. Paint ball parks
- L. Model airplane flying areas.
- M. Music halls.
- N. Public swimming pools.
- O. Riding academies.
- P. Swimming Beaches.
- Q. Skating Rinks.
- R. Zoological and Botanical Gardens.

10.0511 Energy Conservation Uses

The Following Energy Conservation Uses Are Conditional Uses and May Be Permitted As Specified:

- A. Wind Energy Conversion Systems, commonly referred to as “windmills,” which are intended to produce electrical power, may be permitted in any district provided that the following information, requirements, and standards shall apply:
 - 1. Application: Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures, or connect to a utility company grid. The application shall further indicate the level of noise to be generated by the system, and provide assurances as to the safety features of the system. Solar easements shall accompany the application.
 - 2. Construction: wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot.
 - 3. Noise: The maximum level of noise generated by a wind energy conversion system shall not exceed the standards set forth in 10.1105, as measured at the lot line.
 - 4. Electro-magnetic interference: wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to

the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with federal communications commission regulations.

5. Location: wind energy conversion systems shall comply with all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems located on a lot in a R-1, R-2, or R-3, zoning district shall be located in the rear yard.
 6. Height: Wind Energy Conversion Systems are exempt from the height requirements of this Ordinance, However, all such systems over 75-feet in height shall submit plans to the federal aviation administration (FAA) to determine whether the system is considered an object affecting navigable air space and subject to FAA restrictions. A Copy Of The FAA Application, If Required, Or A Written Statement Signed By The Applicant That Such Approval Is Not Required Shall Be Submitted With The Conditional Use application. A Copy Of Any FAA Restrictions Imposed Shall Also Be Included As A Part Of The Conditional Use Permit Application.
 7. Fence required: all wind energy conversion systems shall be surrounded by a security fence not less than 6 feet in height. A sign shall be posted on the fence warning of high voltage.
 8. Utility company notification: the appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.
 9. Compliance with electrical code: the electrical portion of the installation shall comply with all provisions of Chapter Comm 16 Electrical of the Wisconsin administrative code.
- B. Solar energy conversion systems, commonly referred to as “active” or “passive” solar collection and heating systems and including all systems as defined by section 13.48(2)(h) of the Wisconsin statutes when such systems are erected as an accessory structure may be permitted in any district.
1. Application: Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures.
 2. Construction: Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.

3. Location and Height: Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this ordinance unless otherwise provided in the conditional use permit issued pursuant to this section.

10.0512 Temporary Uses

The following uses are conditional uses and may be permitted as specified.

- A. General Requirements. Temporary uses may be permitted in the A-1 Agricultural/Rural Residential District, B-1 Mixed Use Commercial Business District, B-2 Highway Business District, M-1 Limited Manufacturing District or M-2 General Manufacturing District, for a period not to exceed 10 days. Special requirements may be imposed by the Plan Commission for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the road right-of-way. Temporary uses permitted under this section may erect one (1) temporary sign not to exceed 24 square feet in area on one (1) side and 48 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within five (5) days following the temporary activity. The following temporary uses may be permitted:
 - B. Flea Markets may be permitted in any business or manufacturing district for a period not to exceed 3 days. Special requirements may be imposed by the Town Board for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right-of-way. Temporary uses permitted under this Section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.
 - C. Circuses and Animal Shows may be permitted in any business or manufacturing district for a period not to exceed 10 days. Special requirements may be imposed by the Town Board for parking, sanitary facilities, lighting, and hours of operation. The Board may limit or prohibit the display of dangerous animals such as tigers or snakes. No temporary use listed herein shall be conducted within the street right-of-way. Temporary uses permitted under this Section may erect one temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within 10 days following the temporary activity.

10.0600 PARKING, LOADING, DRIVEWAYS, AND ACCESS

10.0601 Traffic Vision Clearances

A. Intersections of Two Town Streets

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2.5 feet and 10 feet above the plane through the mean centerline street grade within the triangular space formed by a line joining points on the right-of-way of two intersecting Town streets at a point located 100 feet from their intersection (see Appendix B, Illustrations No. 1 and No. 2).

B. Vision Clearance Triangles at Intersections with a State or County Trunk Highway

Vision Clearance Triangles at Intersections with a State or County Trunk Highway shall meet the vision clearance requirements of the Wisconsin Department of Transportation or Marinette County, respectively, but in no case shall they be less than those specified in Subsection A above.

C. Street and Railway Intersections

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2.5 feet and 10 feet above the plane through the mean centerline street grade within the triangular space formed by a line joining points on the right-of-way of a street and a railway at a point located 100 feet from their intersection (see Appendix B, Illustrations No. 1 and No. 2).

10.0602 Loading Requirements

On every lot on which a business, trade, or industrial use is hereafter established, adequate space with access to a public street or alley shall be provided for the loading and unloading of vehicles off the public right-of-way. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

10.0603 Parking Requirements

In all districts and in connection with every use, there shall be provided at the time any use is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

A. Access

Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for single- and two-family dwellings, and a minimum of 24 feet at the property line for all other uses.

B. Parking Space Dimensions

The Minimum Dimensions of each parking space shall be 9 feet by 18 feet.

C. Parking Spaces for use by Physically Disabled Persons

Accessible parking spaces shall be provided for all uses except residential uses as required by the *Americans with Disabilities Act of 1990* and *ADA Standards for Accessible Design*, (28 CFR Part 36).

1. All parking spaces provided for use by physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such sign shall comply with the requirements of Sections 346.50, 346.503, and 346.505 of the Wisconsin Statutes.

D. Location of parking spaces

The location of parking spaces is to be on the same lot as the principal use or not more than 400 feet from the principal use. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential lot line or a street right-of-way opposite a residential district.

E. Surface Drainage

All off-street parking areas shall be so graded and drained as to dispose of all surface water. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.

F. Landscaping

All public off-street parking areas which serve 30 or more vehicles and are created or redesigned and rebuilt subsequent to the adoption of this Ordinance shall be provided with accessory landscaped areas totaling not less than 5 percent of the surface area. The minimum size of each landscaped area shall be 100 square feet. Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Town Board. All plans for proposed parking areas shall include a topographic survey and grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area. Parking areas for 30 or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence, or evergreen planting of equivalent visual density, or other effective means, built and maintained to a minimum height of 6 feet.

G. Curbs and Barriers

Curbs and barriers shall be installed at least 4 feet from a property line so as to prevent parked vehicles from extending over any lot line.

H. Guide for Parking Spaces

The following guide specifies the minimum number of parking spaces required. In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or the number of spaces specified for similar use shall apply. In developments involving the establishment or addition of 2 or more uses on one lot or parcel, the cumulative

number of spaces required for each use shall determine the total number of spaces required.

1. Residential Uses

- (a) Single-family, two-family, and multiple-family dwellings: 2 spaces per dwelling unit.
- (b) Housing for the elderly: one space per dwelling unit.

2. Retail sales and customer service uses, and places of entertainment:

- (a) General standard for the above uses: one space per 150 square feet of gross floor area of customer sales and service, plus one space per employee.
- (b) Financial institutions: one space for each 150 square feet of gross floor area of customer service, plus one space per employee for the work shift with the largest number of employees. Financial institutions with drive-in facilities shall provide sufficient space for 4 waiting vehicles at each drive-in service lane.
- (c) Funeral homes: one space for each 4 patrons at maximum capacity, or 25 spaces per chapel unit, whichever is greater.
- (d) Grocery stores or supermarkets: one space per 150 square feet of gross floor area of customer sales and service area, plus one space per employee for the work shift with the largest number of employees.
- (e) Convenience grocery stores: one space per 100 square feet of gross floor area.
- (f) Motels and hotels: one space per room or suite, plus one space per every 2 employees for the work shift with the largest number of employees, plus one space per 3 persons, based on maximum capacity, for each public meeting room and/or banquet room.
- (g) Lodges and clubs: one space per 3 persons based on the maximum capacity of the facility.
- (h) Restaurants: one space per 100 square feet of gross dining area, plus one space per employee for the work shift with the largest number of employees.
- (i) Restaurants, drive-through or fast-food: one space per 50 square feet of gross dining area, plus one space per 2 employees for the work shift with the largest number of employees. Restaurants with drive-through facilities shall provide sufficient space for 4 waiting vehicles at each drive-through service lane.

- (j) General merchandise repair services: One space per 300 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
 - (k) Theaters, auditoriums and other places of public assembly: one space per 3 patrons based on the maximum capacity of the facility.
 - (l) Personal services: One space per 200 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
 - (m) Taverns, dance halls, night clubs and lounges: One space per 50 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
 - (n) Motor vehicle sales establishments: 2 customer parking spaces per salesperson, plus one space per employee for the work shift with the largest number of employees.
 - (o) Motor vehicle repair, maintenance, and service stations: 3 spaces per indoor service bay plus one space per employee for the work shift with the largest number of employees.
 - (p) Animal hospitals: 3 patron parking spaces per doctor, plus one space per employee for the work shift with the largest number of employees.
 - (q) Plant nurseries, and lawn and garden supply stores: one space per 200 square feet of gross indoor sales and display area, plus one space per 500 square feet of gross outdoor sales and display area, plus one space per employee for the work shift with the largest number of employees.
 - (r) Shopping centers (gross leasable area of at least 50,000 square feet): 5 spaces per 1,000 square feet of gross leasable area.
3. Offices
- (a) Medical, dental and similar professional health service offices: 5 patron spaces per doctor, plus one space per employee for the work shift with the largest number of employees.
 - (b) Government, professional and business offices: one space per 250 square feet of gross floor area.
4. Commercial/Recreational uses
- (a) General standard: one space per 4 patrons based on the maximum capacity of the facility, plus one space per employee for the work shift with the largest number or employees.
 - (b) Bowling alleys: 5 spaces for each lane, plus one space per employee for the work shift with the largest number of employees.

- (c) Golf courses: 36 spaces per 9 holes, plus one space per employee for the work shift with the largest number of employees.
 - (d) Golf driving ranges: One space per tee, plus one space per employee for the work shift with the largest number of employees.
 - (e) Miniature golf course: 1.5 spaces per hole, plus one space per employee for the work shift with the largest number of employees.
 - (f) Indoor tennis, racquetball and handball courts: 3 spaces per court, plus one space per employee for the work shift with the largest number of employees.
 - (g) Skating rinks, ice or roller: One space per 200 square feet of gross floor area.
5. Industrial and related uses
- (a) Manufacturing, processing, and fabrication operations: One space per employee for the work shift with the largest number of employees.
 - (b) Wholesale business: One space per employee for the work shift with the largest number of employees, plus one space per 2,500 square feet of gross floor area.
 - (c) Warehousing: One space per employee for the work shift with the largest number of employees, plus one space per 5,000 square feet of gross floor area.
 - (d) Mini-warehousing: One space per 10 storage cubicles, plus one space per employee for the work shift with the largest number of employees.
 - (e) Extractive and related operations: One space per employee for the work shift with the largest number of employees.
6. Institutional and related uses
- (a) Churches: One space per 3 seats based on the maximum capacity of the facility.
 - (b) Libraries: One space per 250 square feet of gross floor area or one space per 4 seats based on maximum capacity, whichever is greater, plus one space per employee for the work shift with the greatest number of employees.
 - (c) Museums: One space per 250 square feet of gross floor area, plus one space per employee for the work shift with the greatest number of employees.
 - (d) Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories: One space per bed.

- (e) Convents and monasteries: One space per 3 residents, plus one space per employee for the work shift with the largest number of employees, plus one space per 5 chapel seats if the public may attend.
- (f) Nursing homes: One space per 3 patient beds, plus one space per employee for the work shift with the largest number of employees.
- (g) Hospitals: 2 spaces per 3 patient beds, plus one space per staff doctor, plus one space per employee, excluding doctors, for the work shift with the largest number of employees.
- (h) Schools
 - (1) Elementary schools, middle schools, and high schools: One space for each teacher and staff member, plus one space for each 10 students 16 years of age or older.
 - (2) Colleges, universities and trade schools: One space for each teacher and staff member, plus one space for each 2 students during the highest attendance period.
 - (3) Children's nursery schools and day-care centers: One space per employee for the work shift with the greatest number of employees, plus one space per 6 students at the highest class attendance period.

10.0604 Restrictions on Parking of Equipment

Parking of farm, construction, or building equipment and parking of trucks, tractors, and semi-trailers and disassembled, dismantled, junked, wrecked, inoperable or unlicensed vehicles shall be restricted as follows:

- A. Parking in Institutional, and Park Districts
No automobiles, truck tractor, semi-trailer, commercial or construction vehicle, machinery, equipment or truck with dual rear axles shall be stored on lots in Park districts. Agricultural vehicles and machinery stored on an operating farm in any of the aforementioned districts are exempt from this restriction.
- B. Parking in Agricultural, Business, and Manufacturing Districts
Vehicles and machinery used in conjunction with a business or industry may be stored, inside or outside, on the premises provided that when stored outside, they do not block a public right-of-way or obscure clear vision on roadways.
- C. Restrictions on the Parking of Wrecked, Inoperable, etc. Vehicles
No more than two (2) disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicles shall be stored, viewed from the road or adjoining property, or allowed to remain in the open upon private property in the Town of Wagner within 10 days after receiving written notice from the Zoning Administrator to remove or enclose such vehicle unless:

1. The vehicle is being held as a part of an automotive sales or repair business enterprise located within a district zoned for that purpose; or
2. The vehicle is in use on the premises as a lawful, unlicensed use; or
3. Due to individual hardship, a variance has been granted by the Zoning Board of Appeals to store such vehicle. The Zoning Board of Appeals shall not grant such variances for a period of more than one year.
4. The vehicles are stored to the rear of the lot and more than 50 feet from the nearest property line and cannot not be seen from any public road or adjoining property.

10.0605 Parking of Recreational Vehicles

No motorhome, travel trailer, recreational vehicle, boat, snowmobile, or other recreational type vehicle shall be stored on any property in an agricultural or residential district except as provided herein:

- A. Boats and trailers, travel trailer, or other recreational vehicles may be stored in the side or rear yard. If more than one recreational vehicle is stored in the side or rear yard, all vehicles, with the exception of one, shall be shielded from view by an opaque screen. The screen may consist of any combination of opaque fencing, vegetation, natural features, or structures.
- B. Any number of personal recreational vehicles may be stored within the lot within a fully enclosed structure.
- C. A conditional use permit(s) to commercially store recreational vehicles as required by Section 10.0505 D. shall be reviewed pursuant to Section 10.0500 of this Ordinance.

10.0606 Driveways

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet all requirements of Chapter 12: Driveway Ordinance and the following:

- A. Setback
Islands between residential driveway openings shall be provided, with a minimum of 10 feet between all driveways and 5 feet at all lot lines.
- B. Vehicular Entrances and Exits
Vehicular Entrances and Exits to drive-in theaters, banks, restaurants, motels, funeral homes, vehicular sales, service stations, or washing and repair stations or garages shall be located not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly on an adjacent property.

10.0607 Street and Highway Access

A. Direct Private Access

No direct private access shall be permitted to the existing or proposed right-of-way of expressways, state trunk highways, or any controlled access arterial street without permission from the highway agency having access control jurisdiction. Access barriers, fencing, ditching, landscaping, or other topographic barriers shall be erected to prevent unauthorized vehicular ingress and egress to the above specified streets or highways.

B. Driveways on Arterial Streets

Driveways on arterial streets shall be located a minimum of 100 feet from a street intersection unless the lot width is less than 100 feet, in which case the Zoning Administrator shall determine the driveway location. Said setback shall be measured from the intersection of the rights-of-way of the two streets.

C. Driveways on collector or land access streets shall be located a minimum of 100 feet from a street intersection unless the lot width is less than 100 feet, in which case the Zoning Administrator shall determine the driveway location. Said setback shall be measured from the intersection from the rights-of-way of the two streets.

D. Residential Driveways on Corner Lots shall be located on the least heavily traveled street.

E. Temporary Access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agency having jurisdiction. Such access permit shall be temporary and revocable.

10.0700 SIGNS

10.0701 Purpose and Intent

The intent of this Section is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors and the Town as a whole.

10.0702 Compliance

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without conforming with the provisions of this Ordinance. No signs, with the exception of official signs, shall be placed within the public right of way. No signs shall be located within the vision clearance triangle of any intersection.

10.0703 Signs Permitted in all Districts Without a Permit

The following signs are permitted in all zoning districts without a permit, subject to the following regulations:

- A. Bulletin Boards for public, charitable or religious institutions not to exceed 32 square feet in area located on the premises.
- B. Community Identification and Welcome signs upon review and approval by the Plan Commission.
- C. Election Campaign Signs provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected prior to the first day of the “election campaign period” as defined in Section 12.04 of the Wisconsin Statutes, and shall be removed within 4 days following the election. Election campaign signs may not be placed within the public right-of-way.
- D. Farm Identification Signs placed on premise showing the name of the owner or corporate affiliation or memberships not to exceed 32 square feet in area.
- E. Home Occupation and Professional Home Office Signs located on premise not to exceed 2 square feet in area.
- F. Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- G. Name and Warning Signs not to exceed 2 square feet located on the premises.
- H. Official Signs, such as traffic control, parking restrictions, information, and notices.
- I. Real Estate Signs not to exceed 8 square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located. Two (2) real estate signs shall be allowed per parcel.
- J. Rummage Sale and Garage Sale Signs provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.

10.0704 Signs Permitted in all Residential Districts with a Permit

The following signs are permitted in any residential district and are subject to the following regulations:

- A. Permanent Real Estate Signs placed at the entrance to a subdivision or development shall contain only the name of the subdivision or development, shall meet all the yard requirements of the district in which it is located, and shall be placed as to not impede visibility. The Town Board shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.
- B. Temporary Development Signs for the purpose of designating a new commercial or industrial building or development, or for the promotion of a subdivision may be permitted for a limited period of time provided that the sign shall not exceed 48 square feet in area and shall meet all the yard requirements of the district in which it is located. The Town Board shall

specify the period of time the sign may remain based on the size of the development allowing a reasonable time to market the development.

10.0705 Signs Permitted in the Agricultural District Without a Permit

The following signs may be permitted in the A-1 Agricultural District and are subject to the following regulations:

- A. Directional Signs indicating the name of a business or other establishment, and the direction and distance to the establishment. No directional sign shall exceed 32 square feet in area. The number of directional signs permitted shall be determined by the Plan Commission on a case-by-case basis.
- B. Ground Signs and Wall Signs advertising farm products produced on and/or sold on the premises shall not exceed 25 feet in height above the ground surface, shall meet all yard requirements for the district in which they are located, and shall not exceed a total of 100 square feet on one side or 200 square feet on all sides for any one premises.

10.0706 Signs Permitted in all Business and Manufacturing Districts with a Permit

Signs are permitted in all business and manufacturing districts subject to the following restrictions:

- A. Wall Signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface and shall not extend above the roofline of the building. Wall signage shall be allocated at a maximum of 1.5 square foot of signage allowed for each linear foot of building length.
- B. Projecting Signs fastened to, suspended from, or supported by structures shall not exceed 20 square feet in area for any one premises; shall not extend more than 6 feet into any required yard; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; shall not be less than 10 feet from all side lot lines; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
- C. Ground Signs shall not exceed 6 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one lot.
- D. Marquee, Awning, or Canopy Signs affixed flat to the surface of the marquee, awning, or canopy are permitted providing that the sign does not extend vertically or horizontally beyond the limits of said marquee, awning, or canopy. A marquee, awning, or canopy may extend to within one foot of the vertical plane formed by the curb. A name sign not exceeding 2 square feet in area located immediately in front of the entrance to an establishment may be suspended from a canopy provided that the name sign shall be at least 10 feet above the sidewalk.

- E. Window Signs, except for painted signs and decals, shall be placed only on the inside of commercial buildings. Window signs shall not be subject to the limitation on number of signs.
- F. Pole Signs shall meet the height requirements for the zoning district in which they are located; shall not be less than 10 feet above a sidewalk and 15 feet above a parking lot, driveway, or other area used by motor vehicles; and shall not exceed 100 feet on one side or 200 feet on both sides. Pole signs, except for in the B-1 District, shall be set back a minimum of 20 feet from the front or rear property boundary line; may not be placed in any right-of-way or easement; and may not be located closer than 500 feet to another pole sign.
- G. Combinations of any of the above signs, excluding window signs, shall meet all the requirements of the individual sign. The total number of signs on any premises shall be limited as follows:

Floor Area	Maximum Number of Signs Permitted
0 - 5,000 sq. ft.	2
5,001 - 20,000 sq. ft.	3
20,001 - 50,000 sq. ft.	4
More than 50,000 sq. ft.	5

10.0707 Off-Premises Signs

Off premises signs are permitted in all districts except for R-1, R-2 and R-3 Residential Districts under the following conditions.

- A. Off-premises signs less than or equal to 64 square feet in area are permitted under the following conditions:
 - 1. Shall have a maximum height not to exceed 8 feet above mean centerline grade of adjacent highway.
 - 2. Shall not be located within 5,280 feet (1-mile) of any other off premises sign.
 - 3. Shall not be located in the vision clearance triangle at highway and/or railroad intersections. Vision clearance triangle shall be as required by the highway authority.
 - 4. Shall not be lighted.
 - 5. Shall be permitted by obtaining a Sign Permit before commencing construction.
- B. Off-premises signs greater than 64 square feet and less than 572 square feet are permitted under the following conditions:
 - 1. Shall not be located beyond 5,280 feet (1-mile) of any incorporated municipal boundary.
 - 2. Shall not be located within 1,500 lineal feet of any other off-premises sign.

3. Shall have a maximum height not to exceed 35 feet in height above the mean centerline grade of the adjacent highway.
4. Shall be lighted in a manner that does not cause glare or impair driver visibility. Signs may be illuminated but not flashing.
5. Shall not be located in the vision clearance triangle at highway and /or railroad intersections.
6. Vision clearance triangle shall be as required by the highway authority.
7. Shall be engineered to withstand 40 pounds per square foot of wind load.
8. Shall be permitted by obtaining a Sign Permit before commencing construction.

10.0708 Signs Permitted in Institutional and Park Districts with a Permit

The following signs are permitted in the Institutional and Park Districts and are subject to the following regulation:

- A. Private Institutional and Park Name Signs when approved by the Town Board.
- B. Public Institutional and Park Name Signs when approved by the Town Board after receiving a recommendation from the Town Plan Commission.

10.0709 Portable Signs

The Zoning Administrator may permit the temporary use of a portable sign for advertising purposes in any district provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 60 days in any 365-day period. The permit required in Section 10.0716 shall be required for portable signs.

10.0710 Facing

No sign except those permitted in Sections 10.0703 and 10.0704 shall be permitted to face a residence within 100 feet of such residence.

10.0711 Lighting and Color

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility. Signs may be illuminated but non-flashing. Signs shall not be revolving or animated, however, copy on time and temperature devices may be cyclical. Signs in residential districts may be illuminated only with Town Board approval.

10.0712 Construction and Maintenance Standards

- A. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area; and shall be constructed to receive dead loads as required in the Town Building Code or other ordinance.
- B. Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- C. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- D. Supporting Members or Braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other non-corrosive incombustible material. Every means or device used for attaching any sign shall extend through the walls of the building should the Zoning Administrator determine that the safe and permanent support of such sign so requires and shall be securely anchored by wall plates and nuts to the inside of the walls in accordance with instructions given by the Zoning Administrator. Small flat signs containing less than 10 square feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Zoning Administrator.
- E. No Signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity therefore may require.

10.0713 Nonconforming Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the size or location does not conform to this Ordinance and shall be subject to the nonconforming use provisions of Sections 10.0901 and 10.0902 of this Ordinance.

10.0714 Prohibited Signs

The following signs shall be prohibited within the Town of Wagner:

- A. Off-premises signs greater than 572 square feet are prohibited.

- B. Roof signs.
- C. Flashing or Animated Signs or signs with intermittent intensity of illumination, except for a sign indicating the time, date, and temperature.
- D. Signs Which Obstruct any door, fire escape, stairway, or any opening intended to provide ingress and egress to or from any building or structure.
- E. Any Sign Which May Obstruct or impair the view in any direction at the intersection of two streets through its placement or illumination.
- F. Signs Which Advertise Activities that are illegal under Federal or State laws or regulations, or County or Town ordinances or resolutions.

10.0715 Measuring Signs

In calculating the area of a sign to determine whether it meets the requirement of this Ordinance, the Zoning Administrator shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregularly shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign. For signs located on slopes, height shall be measured from the average finished grade.

10.0716 Flags

Flags shall be allowed as follows:

- A. National, State, County and Town Flags shall not be subject to regulation.
- B. Businesses will be allowed one flag, not to exceed 15 square feet, identifying the business with text or a logo.

10.0717 Sign Permit

Applications for a Sign Permit shall be made on forms provided by the Zoning Administrator or Town Clerk and shall contain or have attached thereto the following information:

- A. Name, Address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- B. Name of Person, firm, corporation, or association erecting the sign.
- C. Written Consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- D. A Scale Drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- E. A Scale Drawing indicating the location and position of such sign in relation to nearby buildings or structures.
- F. Copies of any other permit required and issued for said sign.

- G. Additional Information as may be required by the Zoning Administrator or Plan Commission.
- H. Sign Permit Applications shall be filed with the Zoning Administrator, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 30 days of receipt from the applicant unless the time is extended by written agreement with the applicant. A sign permit shall become null and void, if work authorized under the permit has not been completed within 6 months of the date of issuance.

10.0718 Fee for Sign Permit

The fee for a Sign Permit shall be established pursuant to Section 10.0214.

10.0800 MODIFICATIONS

10.0801 Height

The height limitations stipulated elsewhere in this Ordinance may be modified as follows:

- A. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, electric power and communication transmission lines, and wind energy conversion systems are exempt from the height limitations of this Ordinance.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, radio and television receiving and transmitting antennas shall not exceed in height their distance from the nearest lot line. See Section 10.0509 for requirements and modifications for wireless communication facilities.
- E. Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of 85 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

10.0802 Yards

The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- A. Uncovered Stairs, landings, ramps, and fire escapes may project into any yard but shall not exceed 6 feet in width nor be closer than 14 feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, bays, eaves, and ornaments, may project into any required yard, but such projection shall not exceed 2 feet.
- C. Off-Street Parking is permitted in all yards of all districts provided that commercial and industrial parking shall not be located closer than 25 feet to a residential district. All areas designated as parking areas must be surfaced with asphalt, concrete, brick, or crushed stone.
- D. Landscaping and vegetation are exempt from the yard requirements of this ordinance, provided that such landscaping and vegetation shall not interfere with the vision clearance triangle as set forth in section 10.0601 of this ordinance.

10.0803 Accessory Use Regulations

Accessory uses are permitted as specified herein or under the zoning district regulations in Section 10.0300. A Zoning/Building Permit shall be required where specifically noted in this Section. The use and/or location requirements stipulated elsewhere in this Ordinance may be modified for accessory uses as follows:

- A. In R-1, R-2, and R-3 Districts accessory structures shall not exceed 5% of parcel/lot.
- B. Accessory Structures Permitted in the Side or Rear Yard. The following accessory structures may be permitted in the side or rear yard only:
 - 1. Accessory buildings, such as garages, gardening, tool, or storage sheds, or gazebos, upon the issuance of a Zoning/Building Permit. Accessory buildings shall be located at least 20 feet from the principal structure; shall be located not closer than 20 feet to a lot line; and shall not exceed 35 feet in height.
 - 2. Patios and decks, constructed at or below yard grade, may be erected, without a Zoning/Building Permit, adjacent to the principal structure, and shall be located not closer than 5 feet to a lot line.
 - 3. Decks located adjacent to a principal structure shall be located not closer to a lot line than the required side yard and rear yard requirements for the district in which they are located. Freestanding decks or decks surrounding private swimming pools separated from the principal structure shall be located at least 10 feet from the principal structure and shall be regulated in the same manner as an accessory garage, tool shed, or gazebo.
 - 4. Central air conditioning compressors, trash or burn barrels, children's swing sets, children's play equipment, dog houses, compost piles, and

- gardens are permitted without a Zoning/Building Permit, provided that such uses shall be located at least 5 feet from a lot line.
5. Accessory non-commercial pet kennels may be placed in the rear yard of any residential district upon the issuance of a Zoning/Building Permit provided that the kennel is located not closer than 20 feet from a lot line.
 6. Private swimming pools, upon the issuance of a Zoning/Building Permit, provided that:
 - (a) Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence.
 - (b) No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into a municipal sanitary sewerage system, or directly into a navigable body of water.
 - (c) Equipment shall be provided for the disinfection of all pool water. No gaseous chlorination shall be permitted.
 - (d) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than 20 feet to a lot line.
 - (e) No private swimming pool shall be located closer than 20 feet to a lot line. No walkway surrounding a private swimming pool shall be located closer than 5 feet to a lot line.
 - (f) No lighting installed around swimming pools shall throw any rays onto adjacent properties.
 7. Private tennis courts and private volleyball courts accessory to a residential use may be placed in the side or rear yard in any residential district provided that the use is located not closer than 3 feet to any rear or side lot line; and provided that no lighting installed around a private recreation facility shall throw rays onto adjacent property.
- C. Accessory Uses Permitted in Any Yard. The following accessory uses and structures may be placed in any yard without a Zoning/Building Permit provided that such use does not interfere with the vision clearance triangle as set forth in Section 10.0601 of this Ordinance; shall not be located closer than 5 feet to a side or rear lot line and shall not exceed 15 feet in height: basketball hoops, bird baths, fountains, lawn furniture, religious statues, and wishing wells. Flag poles shall not be located closer than 5 feet to a side or rear lot line and shall not exceed the height limitation for the zoning district in which they are located.

- D. Rummage Sales may be conducted in any district provided that the rummage sale does not exceed 4 consecutive days in length and is not conducted more often than 3 times per year. Rummage sales do not require the issuance of a Zoning/Building Permit. Rummage sale signs shall be limited as provided in Section 10.0703.E of this Ordinance.
- E. Fences are a permitted accessory use in any district and may be erected upon the issuance of a Zoning/Building Permit, unless otherwise specified. No solid fences shall be located within 100 feet of a highway or street centerline or within 15 feet of the pavement on the street side yard of a corner lot. All fences shall comply with the following requirements:
 - 1. Fences in the A-1 Agricultural District are permitted up to the lot line and shall not exceed 6 feet in height in the street yard or 6 feet in height in the side yard or rear yard. All fences in the agricultural district erected in a street yard shall be “open fences” as defined in Section 10.1602 of this Ordinance. Barbed wire and electric fences are permitted in the A-1 zoning districts. No permit is required for agricultural fences in the A-1 district.
 - 2. Residential Fences are permitted up to the lot line in the side and rear yards of residential districts, but shall not exceed a height of 6 feet, and shall not extend into the street yard. Residential fences may be “solid fences” as defined in Section 10.1602 of this Ordinance. Residential fences shall be constructed in such a manner that the “finished” side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.
 - 3. Ornamental Fences, as defined in Section 10.1602 of this Ordinance, are permitted in the street yard in any district, but shall not be erected in a street right-of-way and shall not exceed a height of 4 feet. Ornamental fences shall comply with the traffic visibility requirements set forth in Section 10.0601 of this Ordinance. Ornamental fences shall be constructed in such a manner that the “finished” side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.
 - 4. Security Fences or screening fences are permitted up to the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be “open fences” as defined in Section 10.1602 of this Ordinance when located in the street yard. Security fences may include up to 4 strands of barbed wire on the top of the fence provided that the barbed wire is at least 8 feet above grade with the vertical supports for the barbed wire slanting inward away from the property line. Security and screening fences shall comply with the traffic visibility requirements set forth in Section 10.0601 of this Ordinance. Security fences shall be constructed in such a manner that the “finished” side shall face the

neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.

- F. Antennas. The Town of Wagner recognizes that the development of various antennas, including satellite dish antennas, and their increased use poses questions of regulation not often addressed in local zoning ordinances. In developing antenna regulations, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining property owners and the general public. To protect the health and safety of all citizens, as well as the aesthetic values embodied in this Ordinance, the following regulations shall apply to all terrestrial and satellite dish antennas, with the exception of satellite antennas with a diameter of 2 feet or less:
1. Terrestrial antennas and satellite dish antennas may be located in the side or rear yard or on the roof of the principal structure in all zoning districts.
 2. All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in Section 10.0801 of this Ordinance.
 3. All free standing terrestrial antennas shall be located not less than one foot from a lot line for each one foot of height above the surrounding grade. (See Appendix B, Illustration No. 3).
 4. Roof mounted antennas may be mounted one foot above the roofline for each one foot from the nearest lot line.
 5. All satellite dish antennas shall be located not less than 5 feet from a side or rear lot line. (See Appendix B, Illustration No. 3).
 6. All antennas, including satellite dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.
 7. All antennas, including satellite dish antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 8. Not more than one terrestrial and two satellite dish antenna per dwelling unit shall be permitted on a lot or parcel in a residential zoning district.
 9. Satellite dish antennas shall be located and designed to reduce their visual impact on surrounding properties.

10. Portable or trailer-mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed 5 days at any one location.
 11. In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a side or rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow for the installation of the antenna in a front yard location. The procedure for issuing the variance shall follow the procedure set forth in Section 10.1400 of this Ordinance.
- G. Home Occupations and Professional Home Offices are permitted accessory uses in the A-1 Agricultural District and in any residential district, not requiring a Zoning/Building Permit, provided that:
1. The use of the residential dwelling for the home occupation or professional home office shall be clearly incidental and subordinate to its residential use and shall not occupy more than 25 percent of the floor area of one floor.
 2. No persons other than residents of the premises shall be employed or engaged in such home occupation or professional home office. Other persons may be employed by the business but no non-resident shall work on the premises.
 3. No traffic shall be generated by the home occupation or professional home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.
 4. On-site retail sales shall be limited to goods made on the premises and/or goods approved by the Plan Commission that are associated with the normal operations of the home occupation (i.e. beauty supplies, shampoos, personal care products for a beauty shop).
 5. No outdoor storage of equipment or products shall be permitted.
 6. Home occupations, which comply with the conditions set forth above, may include, but are not limited to babysitting, barber or beauty shops for no more than 2 customers, canning, crafts, dance studios, desktop publishing and other computer services, dressmaking, insurance or real estate agencies, laundering, millinery, photographic studios, piano teaching, telephone marketing, and word processing.
 7. Home occupations may include auto body or engine repair or construction trades.

10.0804 Accessory Use Restrictions

Items prohibited as accessory structures. Such items as, but not limited to, boats, truck bodies, manufactured or mobile homes, buses, railroad cars, shipping containers, and trailers shall not be used as accessory structures.

10.0805 Compliance With The Americans With Disabilities Act

Modifications to requirements of this Ordinance may be granted by the Plan Commission for the purpose of complying with the requirements of Title II Public Services and Title III Public Accommodations and Commercial Facilities of the Federal Americans with Disabilities Act. Such compliance may require the waiving or modifications to setback and yard requirements; parking requirements; sign requirements; and site design and landscaping requirements. Modifications granted by the Plan Commission shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.

10.0806 Existing Substandard Lots

A lot in any residential district which does not contain sufficient area to conform to the dimensional requirements of this Ordinance but which is at least 100 feet wide and 40,000 square feet in area may be used as a single-family building site provided that the use is permitted in the zoning district, providing the lot is of record in the County Register of Deed's Office prior to the effective date of this Ordinance, and provided that the lot is in separate ownership from abutting lands. Substandard lots shall be required to meet the setbacks and other yard requirements of this Ordinance.

10.0900 NONCONFORMING USES AND STRUCTURES

10.0901 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

- A. Only That Portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- B. Substitution of New Equipment may be permitted by the Zoning Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

10.0902 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, the use or structure may be repaired to the extent it existed prior to its destruction.

10.0903 Existing Nonconforming Structures

The conforming use of a nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established building setback line along streets, or the yard, height, parking, loading, and/or access provisions of this Ordinance. Additions and enlargements to nonconforming structures are permitted provided that the addition does not encroach further upon yard and height requirements than the existing encroachment. Expanded or extended nonconforming structures shall conform with the established parking, loading, and access provisions of this Ordinance.

10.0904 Changes and Substitutions

Once a nonconforming use has been changed to conform to the Ordinance, it shall not, thereafter, be reverted to another nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the original use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals.

10.0905 Nonconforming Use related to Unlicensed and Inoperable Vehicles

Substitutions are prohibited where a property is nonconforming relative to Section 10.0604 C. of the Ordinance. Section 10.0604 C. limits the parking of unlicensed or inoperable vehicles that may be viewed from the public road or from adjoining properties to two (2) such unlicensed or inoperable vehicles. Unlicensed or inoperable vehicles that are in view from the public road or adjoining property that are removed from the property or moved from view may not be replaced by other unlicensed or inoperable vehicles.

10.1000 SITE PLAN REVIEW AND ARCHITECTURAL CONTROL

10.1001 Purpose and Intent

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure for commercial or industrial purposes, with the exception of agricultural, single-family and two-family dwellings, without first obtaining the approval of the Plan Commission of detailed site and architectural plans as set forth in this Section.

The Plan Commission shall review the site plans, plans for existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading areas and facilities, highway access, traffic generation and circulation, drainage, sewage and water systems, and utilization of landscaping and open space and the proposed operation for development in all districts except the A-1 Agricultural district, and the R-1, R-2, and R-3 Residential districts. The Plan Commission shall grant or deny the associated Zoning/Building Permit, Conditional Use Permit, or other referred permit applications.

10.1002 Principles

To implement and define criteria for the purposes set forth in Section 10.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

- A. No Building or Use regulated by this Section shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
- B. Buildings and Uses regulated by this Section shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.
- C. Buildings and Uses regulated by this Section shall provide for adequate construction site erosion control measures. The Plan Commission shall require erosion control plans in accordance with Section 10.0209 and may establish time schedules for landscaping and revegetation of construction sites. Erosion control plans shall be in conformance with the requirements of Section COMM 21.125 of the Wisconsin Administrative Code.
- D. Buildings and Uses regulated by this Section shall provide for safe traffic circulation and safe driveway locations.
- E. Buildings and Uses regulated by this Section shall provide adequate parking and loading areas.
- F. Buildings and Uses regulated by this Section shall be provided with adequate public services as approved by the appropriate utility.
- G. Use of Exterior Lighting shall be designed in such a manner that all light rays are directed downward onto the property. No rays shall be directed towards adjacent properties.

10.1003 Administration

Plan data shall be submitted to the Zoning Administrator who shall transmit all applications and their accompanying plans to the Plan Commission for their review. Plan data to be submitted with all plan review applications shall include the following:

- A. Site plan drawn to a recognized engineering scale.
- B. Name of project.
- C. Owners and/or developers name and address.
- D. Architect and/or engineer's name and address.
- E. Date of plan submittal.
- F. Scale of drawing and north arrow.

- G. Existing and Proposed Topography shown at a contour interval not more than 2 feet. Topography shall extend 40 feet onto adjacent property, or to the building on the adjacent lot, whichever is greater.
- H. The Characteristics of Soils related to contemplated specific uses.
- I. Total Number of parking spaces.
- J. The Type, Size, and location of all structures with all dimensions shown.
- K. Height of all structures.
- L. Existing and proposed street names.
- M. Existing and proposed public rights-of-way and widths.
- N. Location of existing and proposed sanitary sewers, storm sewers, and water mains, if appropriate.
- O. Location of proposed storm water management facilities, including detention and retention areas.
- P. Location of existing trees.
- Q. Location, Extent, and type of proposed landscaping.
- R. Location of existing and proposed sidewalks and walkways.
- S. A Graphic Outline of any proposed development staging.
- T. Architectural Plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.

10.1004 Review and Findings

The Plan Commission shall review the referred plans within a reasonable period of time following their submittal and render a decision no later than 60 days following their receipt. The Plan Commission shall not approve any plans unless they find after viewing the application that the structures or use, as planned, will not violate the intent and purpose of this Ordinance and that said plans will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety.

10.1005 Sureties

The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule. The Plan Commission may further require a fee equal to the cost of any legal, engineering, administrative, or fiscal work undertaken by the Town in their review of a development project.

10.1006 Appeals

Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal

shall be filed with the Town Clerk within 30 days after the date of the decision by the Board.

10.1100 PERFORMANCE STANDARDS

10.1101 Compliance

This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their lot lines or district. All structures, land, air, and waters shall hereafter, in addition to their use and site regulations, shall comply with the following performance standards.

10.1102 Fire and Explosive Hazards

All activities involving the manufacturing, utilization, processing, or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, or stored only within completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing systems. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 50,000 gallons.

10.1103 Glare and Heat

No activity shall emit glare or heat that is visible or measurable outside its lot lines except activities which may emit sky-reflected glare, which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their lot lines.

10.1104 Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Chapter NR 102 of the Wisconsin Administrative Code.

10.1105 Noise and Vibration

No operation or activity shall transmit any noise or vibration that is above the vibration perception threshold of an individual at or beyond the Industrial or

Commercial District boundaries. Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character, or shrillness.

10.1106 Odors

No non-agricultural activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter NR 429 of the Wisconsin Administrative Code and amendments thereto.

10.1107 Particulate Emissions

No operation of activity shall emit any particulate matter into the ambient air which exceeds the limitations as defined in Chapter NR 429, Wisconsin Administrative Code.

10.1108 Visible Emissions

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding state or federal air pollution standards. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 431, Wisconsin Administrative Code.

10.1109 Radioactivity and Electrical Disturbances

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

10.1110 Vibration

No activity shall emit vibrations that are discernible without instruments outside its premises or the district.

10.1111 Lighting

No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill over on operators of motor vehicles, pedestrians, and uses of land in abutting lots or public rights-of-way. These requirements shall not apply to lighting placed in a public right-of-way for public safety. Accent lighting and low voltage lighting (12 volts or less) are exempt from these requirements.

- A. Orientation. No exterior lighting fixture shall be oriented so that the lighting element (or a transparent shield) is visible from a property in a residential

district. Light rays shall not be directed into street rights-of-way or upward into the atmosphere. The use of shielded luminaries, or luminaries with cutoff optics, and careful fixture placement is encouraged to facilitate compliance with this requirement.

- B. Minimum Lighting Standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot-candles, exclusive of approved anti-vandal lighting.
- C. Intensity of Illumination. The intensity of illumination, measured at the property line, shall not exceed 0.5 foot-candles.
- D. Flashing, Flickering, and other Distracting Lighting which may distract motorists is prohibited.
- E. Nonconforming Lighting. All lighting fixtures approved prior to the adoption of this Ordinance not meeting the above criteria shall be treated and regulated as legal nonconforming uses under Section 10.0900.

10.1112 Administration

Determinations necessary for the administration and enforcement of these standards range from those which can be made by a reasonable person using normal senses and no mechanical equipment, to those requiring substantial technical competence and complex equipment. It is the intent of this ordinance that the methods to be used in determining compliance shall be the responsibility of the Zoning Administrator subject to the following procedure:

- A. Approval of Zoning/Building Permits
Prior to approving a Zoning/Building Permit for any industrial use or any change thereof, the Zoning Administrator shall have received from the applicant evidence or assurance that the proposed use or changing use will satisfy all the standards of this ordinance.
- B. Violation of Standards
Whenever the Zoning Administrator has reason to believe the air quality, vibration and exterior lighting standards of this ordinance have been violated, written notice shall be made by certified mail to the person or persons responsible for the alleged violation. Such notice shall describe the alleged violation and shall require an answer or correction of the alleged violation within thirty (30) days. Failure to reply or correct the alleged violation within thirty (30) days may cause lawful action to be taken to cause correction as provided in this ordinance or referral of the alleged violation to the appropriate authorities.

10.1200 ADMINISTRATION

10.1201 Town Board

A. Powers and Duties

The Town Board, in general, performs the following functions in relation to matters addressed by this ordinance:

1. Adopt and periodically review a schedule of all fees, payable by applicants, for the review and processing of all permits and applications, including but not limited to, Zoning/Building Permits, Temporary Use Permits, Sign Permits, formal Site Plan Review, Conditional Use Permits, applications for variances, applications for amendments to this ordinance (text or map), appeals of decisions of the Permit Issuer and appeals of decisions of the Planning Commission on Site Plan Review applications.
2. Approves, approves with changes, or disapproves, after due consideration of any recommendations made by the Planning Commission, any application for an amendment to this ordinance, including applications for amendment to the officially adopted zoning map.
3. Approves, approves with conditions, or disapproves, after due consideration of the recommendations made by the Planning Commission, any application for a subdivision plat.
4. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this ordinance.

10.1202 Plan Commission

The Plan Commission under this ordinance is the Planning Commission that has been duly created by the Town of Wagner. It is the responsibility of the Plan Commission to implement and enforce this ordinance as set forth hereafter. The Plan Commission shall consist of five (5) members, appointed by the Town Board Chairperson and subject to approval by the Town Board, selected for their knowledge of and interest in matters pertaining to this ordinance. Members shall serve three (3) year terms, except that of those first appointed - two shall serve for one year, two for two years and one for three years. Annually, the Town Board Chairperson shall appoint a Commission Chairperson. The members of the Planning Commission shall thereafter elect other officers as may, in their judgment, be necessary.

10.1203 Organization

- #### **A.**
- The Planning Commission shall have power to adopt rules and regulations for its own governance consistent with the provisions of this or any other ordinance of the Town.

- B. Meetings of the Planning Commission shall be held at the call of the Commission Chairperson, or at such other times as the Town Board may determine necessary.
- C. All meetings of the Planning Commission shall be public. The Planning Commission shall keep minutes of its proceedings showing its action and the vote of each member upon questions requiring a vote or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
- D. The presence of three (3) members of the Planning Commission shall constitute a quorum. The concurring vote of two (2) members shall be required to any matter upon which it is required to pass under this ordinance. The grounds of every such determination shall be based on evidence presented in the record.
- E. The Planning Commission may call on the Permit Issuer or other administrative officials for assistance in the performance of its duties, and it shall be the duty of such officials to provide such assistance as is reasonably requested.

10.1204 Powers and Duties

The Planning Commission shall have the following powers and duties:

- A. To initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this ordinance, including applications for amendments to the officially adopted zoning map.
- B. To hear, review and offer its recommendations to the Town Board on applications for subdivision plats.
- C. Upon conducting a public hearing, review and determination the Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for conditional uses
- D. To review and decide on applications for site plan review.
- E. At the request of the Town Board, to prepare and recommend to the Town Board a comprehensive plan for the Town, and from time to time to recommend the Town Board such amendments to the plan as it deems appropriate.
- F. To aid and assist the Town Board in implementing the Towns adopted land use policies and in planning, developing and completing specific projects.

10.1205 Public Information

To the fullest extent possible, the Plan Commission and its staff shall make available to the public all reports and documents concerning the Town Comprehensive Plan and any component thereof. In addition:

- G. All Available Information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed.
- H. The Plan Commission may set fees necessary to recover the costs of providing information to the public.

10.1206 Zoning Administrator Designated

The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Code and to issue, after on-site inspection if needed, all permits required by this Code. The Zoning Administrator shall further:

- A. Maintain Records of all permits issued, inspections made, work approved, and other official actions.
- B. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Code.
- C. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Code to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Town Board, Plan Commission and Town Attorney in a manner specified by him or her.
- D. Assist the Town Board, Plan Commission and Town Attorney in the prosecution of Code violations.
- E. Issue citations for enforcement of and or violation of this ordinance.
- F. Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to ensure compliance with this Code. If, however, he/she is refused entry after presentation of his/her identification, he may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes.
- G. Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection.
- H. Attend all meetings of the Town Plan Commission and the Town Zoning Board of Appeals.

10.1207 Zoning/Building Permit Required

See Section 10.0203.

10.1208 Conditional Use Permit

See Section 10.0500.

10.1209 Temporary Uses

See Section 10.0512.

10.1210 Site Plan and Architectural Review

See Section 10.1000.

10.1211 Permit Fees

See Section 10.0214.

10.1212 Double Fee

See Section 10.0215.

10.1213 Violations

See Section 10.0216.

10.1214 Remedial Action

See Section 10.0217.

10.1215 Penalties

See Section 10.0218.

10.1300 ZONING BOARD OF APPEALS

10.1301 Establishment

There is hereby established a Zoning Board of Appeals for the Town of Wagner for the purpose of hearing appeals and applications, and granting variances and exceptions to the provisions of this Zoning Ordinance.

10.1302 Membership

The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Chairperson and confirmed by the Town Board.

- A. Terms shall be for staggered 3-year periods.
- B. The Chairperson shall be elected by the Zoning Board of Appeals.
- C. An Alternate Member shall be appointed by the Town Chairperson for a term of 3 years and shall act only when a regular member is absent or refuses to vote because of a conflict of interest.
- D. The Secretary shall be elected by the Zoning Board of Appeals.
- E. The Zoning Administrator shall attend meetings for the purpose of providing technical assistance when requested by the Board.
- F. Official Oaths shall be taken by all members in accordance with the Wisconsin Statutes within 10 days of receiving notice of their appointment.
- G. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

10.1303 Organization

The Zoning Board of Appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this Ordinance.

- A. Meetings shall be held at the call of the Chairperson and shall be open to the public.
- B. 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 Board of Appeals (Town Hall) and shall be a public record.
- C. The Concurring Vote of 4 members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a substituted use.

10.1304 Powers

The Zoning Board of Appeals shall have the following powers:

- A. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or Plan Commission.
- B. Variances. To hear and grant appeals for variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured.
- C. Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Plan Commission has made a review and recommendation.
- D. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- E. Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from, and may issue or direct the issuance of a permit.
- F. Assistance. The Board may request assistance from other Town officers, departments, commissions, and boards.
- G. Oaths. The Chairperson may administer oaths and compel the attendance of witnesses.

10.1305 Appeals and Applications

Appeals from the decisions of the Zoning Administrator and Plan Commission concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, or board of the Town. Such appeals shall be

filed with the secretary within 30 days after the date of written notice of the decision or order of the Zoning Administrator and Town Plan Commission. Applications for other determinations by the Board of Appeals provided by this Ordinance 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. Such appeals and applications shall include the following information:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of the record.
- B. Plat of Survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing all of the information required under Section 10.0203 for a Zoning/Building Permit.
- C. Additional Information required by the Town Board, Town Plan Commission, Zoning Board of Appeals, or Zoning Administrator.

10.1306 Hearings

The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing, and shall give notice as specified in Section 10.1500 of this Ordinance. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

10.1307 Findings

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

- A. Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated principal use, accessory use, or conditional use in that particular district.
- B. Exceptional Circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties of uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
- C. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. Preservation of Property Rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

- E. Absence of Detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

10.1308 Decision

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, Plan Commission, and the Town Board.

- A. Conditions may be placed upon any Zoning/Building Permit ordered or authorized by this Board.
- B. Variances or Substitutions granted by the Board shall expire within 12 months unless substantial work has commenced pursuant to such grant.

10.1309 Review by Court of Record

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying 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 Zoning Board of Appeals.

10.1400 CHANGES AND AMENDMENTS

10.1401 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.

10.1402 Initiation

A change or amendment 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 within the area proposed to be changed.

10.1403 Petitions

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, describe the premises to be rezoned, or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- A. Plot Plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.

- B. Owner's Names and Addresses of all properties adjacent to and bordering the area proposed to be rezoned.
- C. Additional Information required by the Town Plan Commission or Town Board.

10.1404 Recommendations

The Town Plan Commission shall review all proposed changes and amendments within the limits of the Town and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Town Board.

10.1405 Hearings

The Town Board shall hold a public hearing upon each recommendation, and shall give notice as specified in Section 10.1500 of this Ordinance.

10.1406 Town Board Action

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

10.1407 Protest

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20 percent or more either of the land area included in such proposed change, or by the owners of 20 percent or more of the area of the land immediately adjacent and extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by a unanimous vote of the Town Board.

10.1500 NOTICES OF PUBLIC HEARING

10.1501 Notices of Public Hearing

- A. A Public Hearing which the Town Board, Town Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Ordinance amending this Ordinance, and including applications for amendment(s) to the officially adopted zoning map shall be preceded by a Class II Notice of Public Hearing pursuant to Chapter 985.07 (2) Wisc. Stats. Said Public Notice shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing. The Class II Public Notice shall be published in a newspaper of general circulation at least once each week for 2 consecutive weeks and the hearing shall not be held until at least 7 days following the last publication.

- B. Notice of the Public Hearing requiring a Class II Notice shall be mailed to all parties-in-interest at least 7 days before the hearing. Parties-in-interest shall be defined as the applicant, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition, and the owners of all lands included in the petition and all lands adjacent to or bordering the lands included in the petition. Failure to give any notice to any property owner shall not invalidate the action taken by the Town Board, Town Plan Commission, or Zoning Board of Appeals.
- C. A Public Hearing which the Town Board, Town Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Ordinance including, but not limited to, conditional use permits; variances; and special exceptions shall be preceded by a Class I Notice of Public Hearing pursuant to Chapter 985.07 (1) Wisc. Stats. and shall specify the date, time, and place of said hearing and shall state the matter to be considered at said hearing.
- D. Notice of the Public Hearing requiring a Class I Notice shall be mailed to all parties-in-interest at least 7 days before the hearing. Parties-in-interest shall be defined as the applicant, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition, and the owners of all lands included in the petition and all lands adjacent to or bordering the lands included in the petition. Failure to give any notice to any property owner shall not invalidate the action taken by the Town Board, Town Plan Commission, or Zoning Board of Appeals.

10.1600 DEFINITIONS

10.1601 General 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 in this Ordinance include the future. The word “person” includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word “shall” is mandatory, the word “should” is advisory, and the word “may” is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.

10.1602 Specific Words and Phrases

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.

ACRE: A measure of land area containing 43,560 square feet.

ADJACENT LOT OR LAND: Parcels of land that share all or part of a common lot line with another lot or parcel of land, including parcels that are abutting solely at corner points. Also referred to as “contiguous parcels”.

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade for sale, rent, lease, inspection, or viewing, books, films, video cassettes, magazines, or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or related to “specified anatomical areas” as defined below, or an establishment with a segment or section devoted to the sale, rent, and display of such material.

ADULT CABARET: A cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.

ADULT ENTERTAINMENT: Any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated “specified sexual activities” or “specified anatomical areas.”

ADULT MINI-MOTION PICTURE THEATER: An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined below, for observation by patrons therein.

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of 50 or more persons used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined below, for observation by patrons therein.

ADULT-ORIENTED ESTABLISHMENT: Includes, but is not limited to, “adult bookstores,” “adult motion picture theaters,” “adult mini-motion picture establishments,” or “adult cabarets.” It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

AIRCRAFT: A contrivance designed for navigation of or flight in the air.

AIRPORT: A place where aircraft can land and take off, usually equipped with hangars and facilities for refueling and repair.

ALLEY: A special public right-of-way affording only secondary access to abutting properties.

AUTOMOBILE WRECKING YARD: An establishment that cuts up, compresses, or otherwise disposes of motor vehicles.

BABY SITTING: The act of providing care and supervision for fewer than 4 children. This definition does not apply when the baby sitter is related to the child, or when more than 4 children in one household are related.

BARNYARD: A fenced area adjoining a barn used primarily for the keeping of animals.

BASEMENT: That portion of any structure that is located below lot grade or a room(s) with a ceiling that is less than 4 feet above lot grade. Basement floor areas shall not be used to compute minimum floor areas as required by this Ordinance.

BED AND BREAKFAST ESTABLISHMENT: Any place of lodging that provides 4 or fewer rooms for rent, is the owner's personal residence, and is occupied by the owner at the time of rental.

BILLBOARD: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

BOARDINGHOUSE: A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for 4 or more persons not members of a family, and not open to transient customers.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING COVERAGE: The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area. Also referred to as Lot Coverage.

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 of the roof.

BUILDING PERMIT: A document signed by the Zoning Administrator as a condition precedent to the commencement of a use or the erection, construction, alteration, conversion, or installation of a building, which acknowledges that such use or building complies with the provisions of the municipal zoning ordinance.

CALIPER: Diameter in inches of a tree measured at a point 4.5 feet above the highest grade abutting the tree.

CAMPGROUND: Any public or private grounds or premises used or established for a period of two weeks or more for the overnight camping of persons using equipment designed for the purpose of temporary camping.

CLUB: A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

COMMERCIAL USE: A business use or activity at a scale greater than a home industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.

COMMUNITY-BASED RESIDENTIAL FACILITY (CBRF): A place where 5 or more unrelated adults reside in which care, treatment, or services above the level of room and board, but not including nursing care, are provided in the facility. A community-based residential facility is subject to State-level licensing and operational limitations as set forth in Chapter 50 of the Wisconsin Statutes.

COMMUNITY LIVING ARRANGEMENT: The following facilities licensed and operated, or permitted under the authority of the Wisconsin Statutes: child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7), and community-based residential facilities under Section 50.01; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons, or jails. The establishment of community living arrangements is governed by Sections 46.03(22), 48.625, 59.69(15), 60.63, and 62.23(7)(i) of the Wisconsin Statutes.

CONDITIONAL USES: Uses of a special nature as to make impractical their predetermination as a principal use in a district.

CONTIGUOUS PARCELS: Parcels of land that share all or part of a common lot line with another lot or parcel of land, including parcels that are abutting solely at corner points. Also referred to as “adjacent lot or land.”

CORNER LOT: A lot abutting 2 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.

CUSTOM MANUFACTURING: Manufacturing establishments primarily engaged in the onsite production of goods by hand, within enclosed structures, involving the use of hand tools, the use of domestic mechanical equipment not exceeding 2 horsepower, or a single kiln not exceeding 8 kilowatts. Incidental sale to consumers of products produced on site may be permitted. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making.

DAY CARE CENTER: An establishment providing care and supervision for 4 or more persons under the age of 7 and licensed by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes.

DECK: A platform or series of platforms, accessory to a dwelling unit, constructed above yard grade. Decks may be free-standing or attached to a dwelling and are intended for use as an outdoor living area.

DENSITY: The number of dwelling units permitted per acre within the gross tract area.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

DISTRICT, BASIC: A part or parts of the Town for which the regulations of this Ordinance governing the use and location of land and buildings are uniform.

DISTRICT, OVERLAY: Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the stricter of the conflicting requirements shall apply.

DRIVE-IN RESTAURANT: An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups, where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

DWELLING: A building designed or used exclusively as a residence or sleeping place, but does not include boarding houses, motels, hotels, tents, cabins, or mobile homes.

DWELLING UNIT: A group of rooms constituting all or part of a dwelling, which are arranged, designed, used, or intended for use exclusively as living quarters for one family.

DWELLING, SINGLE-FAMILY: A detached building containing one dwelling unit, designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY: A building containing 2 dwelling units, including units that are located one over the other.

DWELLING, MULTI-FAMILY: A building containing 3 or more dwelling units, including units that are located one over the other.

ELECTION CAMPAIGN PERIOD: In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers if papers were required, and ending on the day of the election. In the case of a referendum, the period beginning on the day which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

ENCROACHMENT: Any obstruction or illegal or unauthorized intrusion into a right-of-way, required setback, or onto adjacent land.

EROSION: The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

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 sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings, wind energy conversion system facilities, wind farms, transmission towers, and wireless communication towers.

FAMILY: The body of persons related by blood, marriage or adoption, or not more than 4 unrelated persons who live together in one dwelling unit as a single housekeeping entity.

FAMILY DAY CARE HOME: A dwelling licensed as a day care center by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes, where care is provided for not more than 8 children.

FARM OPERATOR: Any person who owns land and raises crops or livestock on that land; or a person who rents land to another for agricultural purposes and who lives on the land having day-to-day contact with the farm operation; or a person who lives on land that he or she has historically farmed. For the purpose of this Ordinance, any person who has farmed land for 5 consecutive years is deemed to have farmed it historically.

FEEDLOT: A lot, yard, corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term does not include pastures or areas which are used for raising crops or other vegetation or upon which livestock are allowed to graze.

FENCE, OPEN: A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 80 percent of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.

FENCE, ORNAMENTAL: A fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line; or frame a driveway, walkway, or planting bed. Ornamental fences have more than 80 percent of their surface area open for free passage of light and air. Ornamental fences are often of the rail or wrought iron type.

FENCE, SECURITY: A fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling. Security fences usually exceed 6 feet in height, are often made of wrought iron or woven wire, and may incorporate additional security features such as barbed wire.

FENCE, SOLID: A structure of boards, rails, planks, stakes, slats, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 80 percent or less of their surface area open for free passage of light and air. Examples of such fences are stockade, board-on-board, board and batten, basket weave, and louvered fences.

FINANCIAL INSTITUTION: A place of business where financial banking services are provided to consumers or clients on the site. Typical uses include banks, savings and loan associations, savings banks, credit unions, and loan companies.

FLEA MARKET: Any premises where the principal use is the sale of new or used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, equipment or objects, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. Flea markets may be conducted within a structure or in the open air. Rummage sales and garage sales are not considered to be flea markets.

FLOOR AREA: The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area measurement shall exclude the area within basements, utility rooms, garages, porches, breezeways, and unfinished attics.

FLOOR AREA, GROSS LEASABLE: The total floor area designed for owner or tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings.

FOSTER FAMILY HOME: The primary domicile of a foster parent which is for 4 or fewer foster children and which is licensed pursuant to Section 48.62 of the Wisconsin Statutes.

FRONTAGE: The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.

FUR FARM: Any property comprising land or buildings or both used for the purpose of raising or harboring fur bearing animals including those defined in Section 29.001, Wisconsin Statutes, and also including chinchillas, nutria, and other fur bearing

animals whether the animals are kept for breeding, slaughtering, pelting, or lab experimental purposes.

GARAGE, PRIVATE: A structure primarily intended for and used for the enclosed storage or shelter of no more than 4 private motor vehicles of the family's resident upon the premises. Carports are considered garages.

GARAGE, PUBLIC OR COMMERCIAL: Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

GARAGE, STORAGE: Any building or premises used for storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease, or oil is sold and vehicles are not equipped, serviced, repaired, hired, or sold.

GARAGE SALE: See "Rummage Sale."

GROSS TRACT AREA: All land contained in a development tract excluding existing road, highway, and railway rights-of-way.

GROUP ASSEMBLY: A company of persons gathered together for any purpose for a period of 2 or more hours.

GROUP FOSTER HOME: Any facility operated by a person required to be licensed by the State of Wisconsin pursuant to Section 48.62 of the Wisconsin Statutes for the care and maintenance of 5 to 8 foster children.

HIGHWAY: A public way for purposes of vehicular traffic including the entire area within the right-of-way.

HOME INDUSTRY: A home occupation that is carried out in a structure separate from the principal structure; or the manufacture or assembly of a product, often on a contract basis, in a residence; or an occupation of a more intense nature than is normally defined as a home occupation.

HOME OCCUPATION: Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises.

HOTEL: A facility offering transient lodging accommodations to the general public. Such facilities may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

HOUSING FOR THE ELDERLY: A dwelling unit or units designed and constructed to be occupied by elderly persons. An elderly person is a person who is 62 years of age or older on the date such person intends to occupy the premises, or a family, the head of which, or his spouse, is an elderly person as defined herein.

IRREVOCABLE LETTER OF CREDIT: An agreement entered into by a bank, savings and loan, or other financial institution which is authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the Town of Wagner, and which is approved, as to form, by the Town Attorney.

JUNKYARD: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

KENNEL Any premise, except where accessory to an agricultural use, where domestic animals, such as dogs and cats, are boarded, trained, or bred.

KENNEL (COMMERCIAL): The boarding, breeding, raising, grooming or training of two or more dogs, cats or other household pets of any age not owned by the owner or occupant of the premise, and/or for commercial gain.

LAND DEVELOPING ACTIVITY: The construction of buildings, structures, roads, parking lots, paved storage areas and similar facilities.

LAND DISTURBING ACTIVITY: Any man-made change of the land surface including removing vegetation cover, excavating, filling and grading, but not including agricultural activities such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscape modifications.

LANDOWNER: Any person holding title to or having an interest in land.

LAND USER: Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

LEACHATE: Liquid that has percolated through solid waste or other mediums from which dissolved or suspended materials have been extracted.

LOT: A tract of land on which a principal building and its accessory buildings are placed, together with the required open spaces; provided that no such lot shall be bisected by a public street, and shall not include any portion of a public right-of-way.

No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size for the purposes of this Ordinance in zoning districts where the required minimum lot size is less than 5 acres. (See also "Parcel.")

LOT AREA: The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT AREA, ABSOLUTE MINIMUM: The minimum lot area to which a lot may be reduced below the standard minimum lot area in the district. Used in lot averaging.

LOT AVERAGING: A design technique permitting one or more lots in a subdivision to be undersized, providing the remaining land from the undersized lot is added to another lot.

LOT, CORNER: A lot abutting 2 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. (See Appendix B, Illustration No. 4).

LOT, DOUBLE FRONTAGE: A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water. Also known as a through lot. (See Appendix B, Illustration No. 4).

LOT, FLAG: A lot not fronting on or abutting a public street and where access to the public street system is by a narrow strip of land, easement, or private right-of-way. Flag lots are not generally considered to conform to sound development principles. (See Appendix B, Illustration No. 4).

LOT, INTERIOR: A lot with frontage on one street which is bounded by adjacent lots along each side and a lot behind fronting on a different street. (See Appendix B, Illustration No. 4).

LOT WIDTH: The width of a parcel of land measured at the setback line.

MANUFACTURED HOME: A dwelling unit which is, or was as originally constructed, designed to be transported after fabrication on its own wheels, or by a motor powered vehicle, arriving at a site where it is to be occupied as a residence (whether occupied or not) complete and ready for occupancy (with or without major appliances and furniture) except for minor and incidental unpacking and hook-up operations, and designed, equipped and used primarily for sleeping, eating, and living quarters or is intended to be so used, and includes any additions, attachments, annexes, foundations, and appurtenances.

Structures which are delivered to the site in halves or other modular arrangements (consisting of complete wall sections or large units fabricated off-premise by the manufacturer of the basic unit and designed and intended to be attached to the basic unit) and which when joined together exceed 22 feet in width throughout, meet minimum floor area requirements of this Ordinance, have a length to width ratio of not more than 2.5 to one (with length measured along the center of the longest roof axis and width measured perpendicular to the above at the completed unit's most narrow span), and which are placed upon a permanent foundation are considered single family residences or single family dwelling units.

MANUFACTURING, HEAVY: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines or a use or process engaged in the storage of potentially or actually hazardous, explosive, flammable, or other commonly recognized hazardous material.

MANUFACTURING, LIGHT: Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no outside storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly, electronics manufacturing, print shops, and publishing houses.

MANURE PIT: A structure or earthen pond located outside of a barn or shelter and used for containment of manure and other wastes from livestock and poultry.

MOBILE HOME: Any self-contained eating, sleeping, or living unit, having a maximum width of 16 feet, which was originally designed or constructed to be

transported by any motor vehicle over the public highways, together with any auxiliary additions, attachments, annexes, foundations and appurtenances to or for the same. Mobile living units which are transported in 2 or more modules are not mobile homes for the purpose of this Ordinance.

MOBILE HOME, DOUBLE WIDE: A double wide mobile home is a mobile home consisting of 2 mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

MOBILE HOME PARK: A mobile home park is a parcel of land upon which 3 or more mobile homes are occupied for dwelling or sleeping purposes are located, regardless of ownership and whether or not a charge is made for the accommodation, but excluding farms where the occupants of the mobile home park work on the farm or are related to the farm owner or operator as father, mother, son, daughter, brother, or sister.

MOTEL: A series of attached, semiattached, or detached sleeping units for the accommodation of transient guests.

MOTERHOME: A self-propelled, completely self-contained vehicle that contains all the conveniences of a home, including cooking, sleeping, and permanent sanitary facilities and in which the driver area is accessible in a walking position from the living quarters.

NONCONFORMING USES OR STRUCTURES: Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto which 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.

OFFICE, GENERAL: Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other similar business offices; organization and association offices; or law, architectural, engineering, accounting, or other professional offices.

ORDINARY HIGHWATER MARK: The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

PARCEL: A tract of land upon which one or more rural structures, including residences, are placed, together with the required open spaces. The term “parcel,” as used in the A-1, R-1, B-1, and M-1 district regulations and unlike the term “lot” as defined elsewhere in this Section, may contain lands reserved for roadway purposes in the computation of the required minimum parcel size.

PARK: A tract of land, designated and used by the public for active and passive recreation.

PARKING LOT: A structure or premises containing parking spaces open to the public. Such spaces may be for rent or a fee.

PARTIES-IN-INTEREST: Includes all abutting property owners, all property owners within 500 feet, and all property owners of opposite frontages. The application of the 500-foot rule is not affected by Town, City, or Village corporate limit lines.

PATIO: A platform or series of platforms, accessory to a dwelling unit, constructed at or below yard grade. Patios may be free-standing or attached to a dwelling and are intended for use as an outdoor living area.

PLAYFIELDS OR ATHLETIC FIELDS: A developed recreation area that may contain a playground as well as fields for competitive sports such as baseball, football, or soccer. Bleachers or grandstands may be provided.

PERSONAL SERVICES: Establishments engaged in the provision of frequently needed services of a personal nature. Typical uses include barber and beauty shops, seamstress, tailor, or shoe repair shops, photography studios, and tanning salons.

PRINCIPAL USE OR STRUCTURE: The main use of land or structures as distinguished from a secondary or accessory use. Such use could be a house in a residential district, a store in a business district, a factory in a manufacturing district, or crops and farm buildings in an agricultural district.

PROFESSIONAL HOME OFFICES: Residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises.

RECREATIONAL VEHICLE: A vehicle used for transient living quarters which can be towed, hauled, or driven and is designed for recreational, camping, or travel use which includes, but is not limited to, travel trailers, camper trailers, motor homes, pickup campers, water craft, all-terrain vehicles and snowmobiles.

RESTAURANT: An establishment where food, refreshments, and beverages are prepared, served, and consumed primarily within the principal structure. (See also "Drive-in Restaurant")

RETAIL ESTABLISHMENT: A place of business offering for sale commonly used goods and merchandise for personal or household use. Includes department stores, apparel stores, furniture stores, or establishments providing the following: Household cleaning and maintenance products, drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys and handcrafted items; apparel, jewelry fabrics and like items; cameras, photography services, household electronic equipment, video and music stores, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and

framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order catalog sales; bicycles; and automotive parts and accessories.

RUMMAGE SALE: The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed 4 consecutive days in length and are not conducted more often than 3 times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as “garage sales”. Flea markets, defined elsewhere in this Section, are not rummage sales.

SCHOOL: A public, parochial, or private institution that provides educational instruction to students, other than a trade or business school.

SEAT: Furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting.

SERVICE STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of fuels for motor vehicles; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

SETBACK: See "Yard, Street"

SEXUAL CONDUCT: Acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.

SHORELANDS: Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. Shorelands in the Town of Wagner are regulated by Marinette County.

SIGN: Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

SIGN, AWNING: Any sign or other graphic material attached or inscribed on an awning (See Appendix B, Illustration No. 5).

SIGN, DIRECTIONAL: A non-commercial sign limited to directional messages (e.g. enter, exit, drive through lane, or no smoking). Logos or business names will be permitted as needed to complete the directional message.

SIGN, GROUND: Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure (See Appendix B, Illustration No. 5).

SIGN, POLE: A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is 6 feet or more above grade (See Appendix B, Illustration No. 5).

SIGN, PORTABLE: Any sign, other than a mobile sign, designated or constructed in such a manner that it can be moved or relocated without any structural support changes (See Appendix B, Illustration No. 5).

SIGN, PROJECTING: Any sign which projects from and is supported by a wall of a building with the display surface of the sign perpendicular to the building wall (See Appendix B, Illustration No. 5).

SIGN, ROOF: A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof. (See Appendix B, Illustration No. 5)

SIGN, TEMPORARY: A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a period of 30 days or less.

SIGN, WALL: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure (See Appendix B, Illustration No. 5).

SIGN, WINDOW: Any sign printed, attached, glued, or otherwise affixed to or behind a window and visible to the public (See Appendix B, Illustration No. 5).

SILVICULTURE: The development and/or maintenance of a forest or wooded preserve.

SPECIFIED ANATOMICAL AREAS: Less than completely and opaquely covered genitals, pubic regions, buttocks, female breasts below the point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Simulated or actual activities that show human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus; or fondling or erotic touching of human genitals, pubic regions, buttocks, or female breasts.

STABLE: A structure that is used for the shelter or care of horses.

STEALTH WIRELESS COMMUNICATION FACILITIES: Facilities designed to substantially conceal or camouflage the wireless antennae and associated equipment.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space

between the floor and the ceiling next above it and including those basements used for the principal use.

STORY, HALF: A space under a sloping roof that has the line of intersection of the roof and wall face not more than 3 feet above the floor level and in which space the possible floor area with head room of 5 feet or less occupies at least 40 percent of the total floor area of the story directly beneath.

STREET: Any vehicular way that is an existing State, County, or Town roadway; is shown upon a subdivision plat or certified survey map approved pursuant to law; or is approved by other official action. The street includes all land within the right-of-way, whether improved or unimproved.

STRUCTURE: Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment.

STRUCTURE, TEMPORARY: A structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

SWIMMING POOL: Any structure, portable or permanent, containing a body of water 48-inches or more in depth, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or similar type pool, located and designed so as not to create a hazard or to be used for swimming or wading.

TEMPORARY USE: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UNIFIED DEVELOPMENT PLAN: A development plan that is created for all areas of a development parcel. When a development plan consists of several parcels, the proposed site plan layout for all parcels must be included in the unified development plan, whether or not development will be phased.

UNNECESSARY HARDSHIP: That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of the Ordinance. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

UTILITIES: Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, wireless communication facilities, shops, and storage yards.

VARIANCE: An authorization granted by the Zoning Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this Ordinance. A variance may not permit the use of a property that is otherwise prohibited by this Ordinance.

VISION CLEARANCE AREA: An unoccupied triangular space at the intersection of 2 or more streets or highways, or a street and a railway, which is bounded by the street lines, highway or railway right-of-way lines, and a setback line connecting points specified by measurement from the corner on each street, highway, or railway line. (See Appendix B, Illustration No. 1 and No. 2).

WOODLANDS: An area having at least 17 trees per acre with a minimum 4-inch caliper and with at least 50 percent canopy cover per acre.

YARD: An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

YARD, REAR: 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 (See Appendix B, Illustration No. 6).

YARD, SIDE: 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 a line parallel thereto through the nearest point of the principal structure (See Appendix B, Illustration No. 6).

YARD, STREET OR SETBACK: 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 street right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards (See Appendix B, Illustration No. 6).

ZONING: The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

ZONING ADMINISTRATOR: The officer appointed by the Town Board to administer this Ordinance and to issue Zoning/Building Permits and, following a determination by the Town Board or Zoning Board of Appeals, respectively, conditional use permits and variances. Also referred to as the Town Building Inspector.

ZONING/BUILDING PERMIT: A permit issued by the Town Zoning Administrator for construction, moving, alteration, or addition to any use of land, or structure and use in combination; upon compliance with the provisions of this Ordinance or an authorized variance therefrom.

10.1700 ADOPTION AND EFFECTIVE DATE

10.1701 Village Powers

The electors of the Town of Wagner, Marinette County, Wisconsin authorized the Town Board to exercise all powers relating to villages and conferred on villages by Chapter 61 of the Wisconsin Statutes at an Annual Meeting held on 1st day of April 2003.

10.1702 Public Hearing

Pursuant to and in accordance with the Laws of the State of Wisconsin, the Town Plan Commission, at the direction of the Town Board of the Town of Wagner conducted a public hearing on this Ordinance on the 9th day of December 2014.

10.1703 Plan Commission Recommendation

The Plan Commission of the Town of Wagner recommended the adoption of this Ordinance at a meeting held on the 17th day of September 2014.

10.1704 Town Board Approval

The Town Board of Supervisors concurred with the recommendations of the Town Plan Commission and proceeded to adopt the Zoning Ordinance at a meeting held on the 9th day of December 2014.

10.1705 County Board Approval

The Marinette County Board of Supervisors concurred with the recommendations of the Town Plan Commission and the Town Board and proceeded to approve the Zoning Ordinance at a meeting held on the 28th day of October 2014.

10.1706 Effective Date

This Ordinance shall take effect the day following the publication or posting of the adopting ordinance, as provided in Section 60.80(3) and Section 66.0103 of the Wisconsin Statutes

APPENDIX A

TABLE OF PRINCIPAL AND CONDITIONAL USES

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Town of Wagner Zoning Districts and Dimensional Requirements

Zoning Districts	Zoning District	Minimum Lot Size (Acres)	Minimum Lot Width at Building Line	Maximum Building Height (Feet)	Minimum Road Setback (ft.) from Centerline	Minimum Sideyard Setback (Feet)	Minimum Rear Yard Setback (Feet)	Maximum Building Height (Barns, sheds) (Feet)	Maximum Silo Height (Feet)	Minimum Floor Area One Story (Sq. ft.)	Minimum Floor Area Two Story (Sq. ft.)	Maximum Lot Coverage (%)
A-1	Agricultural / Rural Residential	2.0 Acres	200 ft.	35 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	70 ft.	100 ft.	720 ft.	1,300 sq. ft. per structure; and, 900 sq. ft. on 1st floor	5%
R-1	Single-Family / Two-Family Residential	2.0 Acres	200 ft.	35 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	720 ft.	1,300 sq. ft. per structure; and, 900 sq. ft. on 1st floor	5%
R-3	Multi-Family Residential	2.0 Acres	200 ft.	35 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	720 ft.	2,000 sq. ft. per structure; and, 500 sq. ft. per dwelling unit	5%
SLR	Shoreline Residential	12,500 sq. ft. of contiguous upland on 1.0 acre	200 ft.	35 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	10 ft.	10 ft.	not applicable	not applicable	980 sq ft	1,300 sq. ft. per structure; and, 900 sq. ft. on 1st floor	5%
B-1	Commercial Business	2.0 Acres	200'	35'	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	Plan Commission Approval	Plan Commission Approval	Plan Commission Approval
M-1	Limited Manufacturing	2.0 Acres	200'	50 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	Plan Commission Approval	Plan Commission Approval	Plan Commission Approval
M-2	General Manufacturing	2.0 Acres	200'	50 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	Plan Commission Approval	Plan Commission Approval	Plan Commission Approval
Q-1	Quarrying	3.0 Acres	250 ft.	70 ft.	100 ft.	200 ft.	200 ft.	not applicable	not applicable	Plan Commission Approval	Plan Commission Approval	Plan Commission Approval
IP	Institutional and Park	2.0 Acres	200 ft.	50 ft.	100 ft. - Class A Highways; 75 ft. - Class B Highways	25 ft.	10 ft.	not applicable	not applicable	Plan Commission Approval	Plan Commission Approval	Plan Commission Approval

APPENDIX B

ILLUSTRATIONS

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Illustration No. 1

VISION CLEARANCE TRIANGLE
(CROSS-SECTION VIEW)

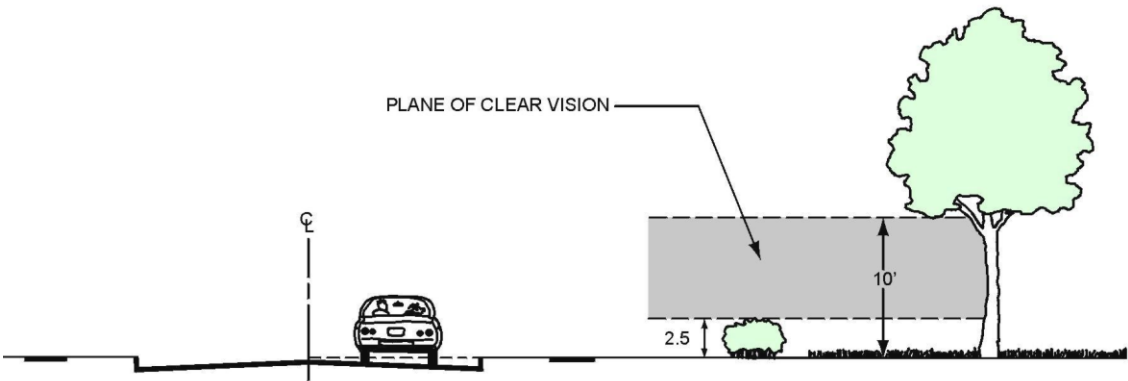


Illustration No. 2

VISION CLEARANCE TRIANGLE
(PLAN VIEW)

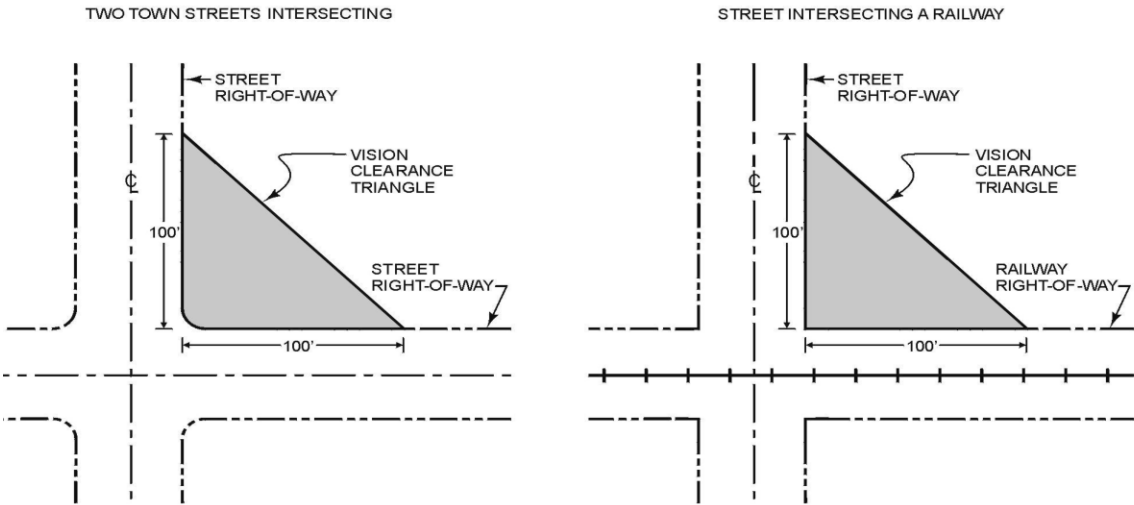


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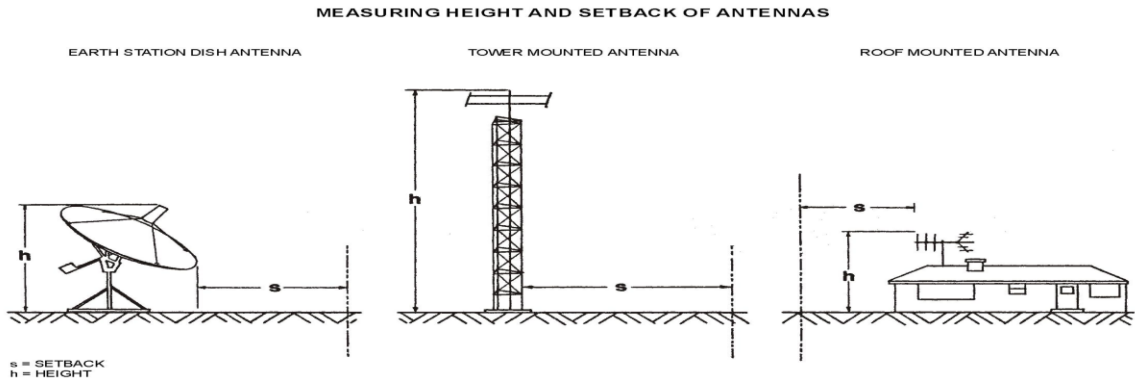


Illustration No. 4

TYPICAL CORNER, DOUBLE FRONTAGE, FLAG AND INTERIOR LOTS

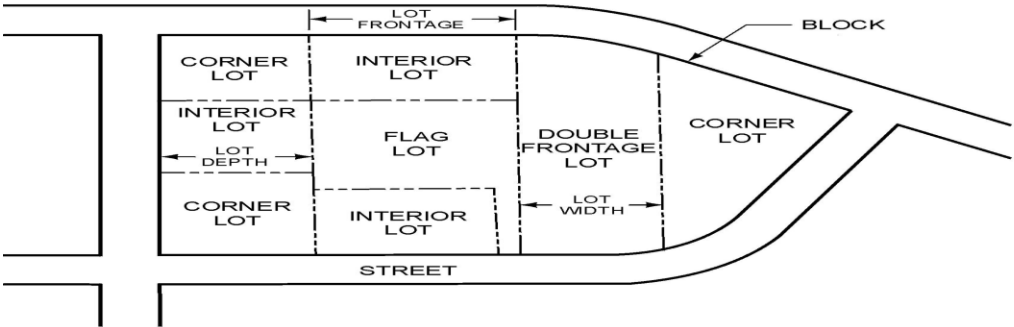


Illustration No. 5

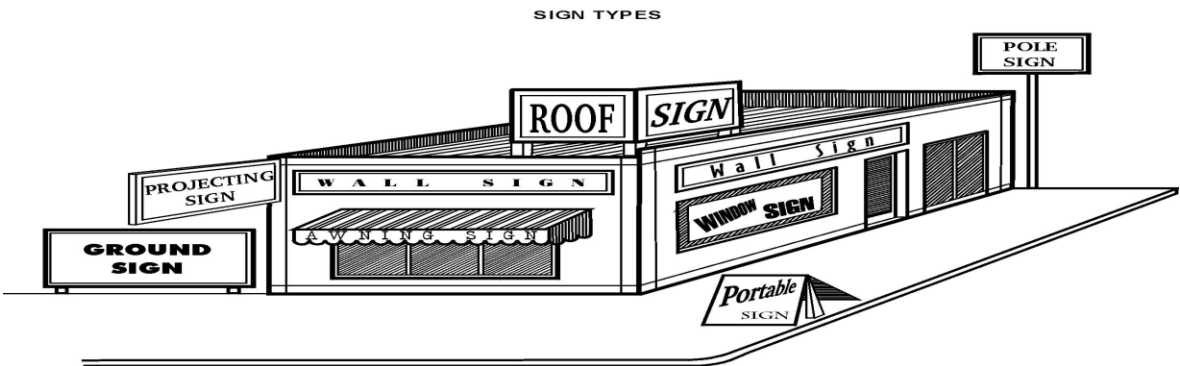
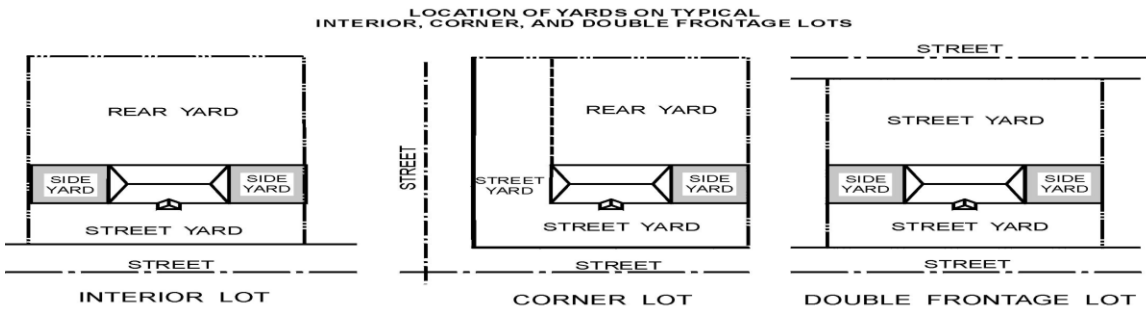


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**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 11: RESERVED

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**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

**CHAPTER 12: SNOWMOBILE
AND
ALL-TERRAIN VEHICLE USE ORDINANCE**

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CHAPTER 12: SNOWMOBILE AND ALL-TERRAIN VEHICLE USE ORDINANCE

12.0100 INTRODUCTION

12.0101 Authority

This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Wagner, Marinette County, Wisconsin, to Sections 60.22(3), 60.62, 61.35, and 62.23(7) and other relevant provisions of the Wisconsin Statutes and amendments thereto, do ordain as follows:

12.0200 TITLE

This Ordinance shall be referred to or cited as the “SNOWMOBILE AND ALL-TERRAIN VEHICLE (ATV) USE ORDINANCE” and is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*.

12.0300 INTENT

To regulate the authorized use of snowmobiles and all-terrain vehicles (ATVs) in the Town of Wagner, Marinette County, Wisconsin.

12.0400 PURPOSE

To regulate snowmobile and ATV access from a place of residence and/or lodging establishment to a snowmobile route or ATV trail in the Town of Wagner of Marinette County, Wisconsin and prescribing penalties for violation thereof.

12.0500 OPERATION OF SNOWMOBILES

12.0501 Designated Roadways / Routes

Snowmobiles may be operated adjacent to a roadway with due regard to safety in the following manner:

- A. Along US numbered highways, state and county highways at a distance of 10 or more feet from the roadway. Travel upon the median of any divided highway is prohibited except to cross.
- B. Along town highways outside of the roadway on the shoulder or berm alongside a town road.
- C. No portion of the snowmobile may be on the improved portion which is the black top, cement, or gravel.
- D. During daylight hours travel may be in either direction regardless of the flow of vehicular traffic.
- E. At night travel shall conform to the direction of vehicular traffic in the nearest lane.
- F. Snowmobiles traveling adjacent to a roadway shall observe roadway speed limits.

12.0502 Snowmobile Travel on Town Roads

Authorized snowmobile travel on Town of Wagner roads are indicated by Attachment "A" and is subject to an annual review and approval by the Town Board of Wagner and the local clubs.

12.0503 Trail Markings and Signs

The marking of trails is the responsibility of local clubs. Warning signs marking curves, sharp corners, crossings, stay on trail, etc., shall be posted prior to the snowmobile trails opening for the season.

12.0504 Intoxicated Snowmobiling.

No person may engage in the operation of a snowmobile while under the Influence of an intoxicant to a degree to which he or she is incapable of safe snowmobile operation. Refer to WI Stats Section 350.101 through 110, etc.

12.0505 State Statutes and Regulations

All State statutes and regulations regarding snowmobiles are adopted by reference.

12.0506 Snowmobile access

The Town of Wagner Board of the Town of Wagner of Marinette County, Wisconsin do ordain as follows:

A. Designated Roadways and/or Highways

1. No person shall operate a snowmobile on the roadway or shoulder of a highway not designated as a snowmobile route as identified by the Town Board in Attachment A. Said Attachment A is subject to annual review and approval by the Town Board of Wagner and local snowmobile clubs.
2. Snowmobiles may be operated from private residences and/or lodging establishments only for the purpose of going to or returning from the closest designated trail and/or route.

B. Snowmobile Routes

The Town Board of the Town of Wagner, Marinette County does hereby ordain any town road as an authorized route dictated by circumstance. Approval or removal for these road authentications can be made by the Town Chairperson until the next regular scheduled Town Board Meeting and then must be approved by the Town Board and properly signed. The purpose of these road additions or deletions is to eliminate delay for the unusual circumstance and will be reviewed periodically. Local snowmobile clubs will determine the opening and closing dates of the trails. The Town Board shall designate the snowmobile routes in Attachment A.

12.0600 OPERATION OF ALL-TERRAIN (ATV) VEHICLES

12.0601 Designated Roadways / Routes

No person may operate an all-terrain vehicle on a highway (including the entire right-of-way) except in the following situations:

- A. To cross a roadway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner possible.
- B. On any roadway which is seasonally not maintained for motor vehicle traffic. Operation of an ATV on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to ATV traffic.
- C. To cross a bridge, culvert, or railroad right of way unless the roadway is officially closed to ATV traffic.
- D. On roadways which are designated as ATV routes.

12.0602 ATV Operation

A person may operate an ATV adjacent to a roadway on a trail or route if the person operates the ATV in the following manner.

- A. At a distance of 10 or more feet from the roadway along US numbered highways, and state and county highways. Travel on the median of a divided highway is prohibited except to cross.
- B. Outside of the roadway along town highways.
- C. During daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.
- D. At night travel shall conform to the direction of traffic in the nearest lane.
- E. Not in excess of the speed limits of the adjacent roadway.
- F. "No ATV" allowed on town roads.

12.0603 Trails

The town may designate corridors through lands which it owns or controls or for which it obtains leases, easements, or permission for use as ATV trails

12.0604 Operation of an ATV While Intoxicated.

No person may engage in the operation of an ATV while under the influence of an intoxicant to a degree to which he or she is incapable of safe ATV operation. Refer to WI Stats 23.33 (13a/b)

12.0605 State Statutes and Regulations

All State statutes and regulations regarding ATV's are adopted by reference.

12.0700 PENALTIES

Any person who violates WI Stat Section 350.07 (driving any animals) and WI Stat Section 350.08 (owner permitting operation) shall forfeit not more than \$200.

Operating under influence of intoxicants shall not be less than \$150 or more than \$300. Refer to WI Stat Section 350.113(B).

All other penalties refer to WI Stat Section 350.11 currently in effect and as adopted.

12.0800 SEVERABILITY

In the event that any section or sections hereinabove shall be ruled unconstitutional by any competent court, such determination shall not affect the validity or effectiveness of this ordinance, and the remainder of said ordinance shall remain in full force and effect.

12.0900 EFFECTIVE DATE

This ordinance shall take effect the day after passage and publication as provided by Law.

Attachment A

Chapter 12: Snowmobile and All-Terrain Vehicle Use Ordinance

[illegible][illegible]

Attachment A

Chapter 12: Snowmobile and All-Terrain Vehicle Use Ordinance

Date	Authorized Snowmobile Routes	Signature

Date	Authorized ATV Routes	Signature

**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 13: RESERVED

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**CODE OF GENERAL ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

**CHAPTER 14: DRIVEWAYS, TOWN HIGHWAYS, AND
PRIVATE ROADS**

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CHAPTER 14: DRIVEWAYS, TOWN HIGHWAYS, AND PRIVATE ROADS ORDINANCE

14.0100 AUTHORITY

This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Wagner, to ss. 60.10 (2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45, Wis. Stats.

14.0200 TITLE

This ordinance is entitled “DRIVEWAYS, TOWN HIGHWAYS, AND PRIVATE ROADS ORDINANCE” and is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*.

14.0300 PRIVATE DRIVEWAY REGULATIONS

14.0301 Purpose

The Purpose of the ordinance is to regulate the location and construction of any Private Driveway or Field Access Road that will connect to any public road in the Town of Wagner.

14.0302 Intent

The ordinance sets forth an orderly procedure for obtaining a Driveway Construction Permit, and will establish driveway permit fees and penalties for failure to obtain a required driveway permit.

14.0303 Jurisdiction

The jurisdiction of this Ordinance shall apply to all lands within the unincorporated limits of the Town of Wagner, Marinette County, Wisconsin.

14.0304 Compliance

- A. No person shall commence construction of any **Private Driveway** including a **Field Access** which is intended to provide access to private property from a public road without providing detailed plans of the proposed construction and obtaining a permit for such construction from the Town of Wagner’s Zoning Administrator or person designated by the Town Board. All costs incurred by the Town of Wagner in the development and construction of said driveway shall be born by the private landowner or developer.
- B. If the proposed driveway will connect to a County or State Highway, the Wisconsin Department of Transportation, the Marinette County Highway Department and the Marinette County Zoning Administrator will establish the rules and regulations regarding conditions for the permit and compliance with the permit.

14.0305 Fire Number

All driveways permitted shall be assigned a fire number.

14.0306 Minimum Driveway Construction Standards

This Ordinance requires that a proposed driveway or field access road shall meet the minimum standards outlined below throughout its length to allow for possible ingress of emergency vehicles.

- A. Minimum driveway surface width shall be **12 feet**
- B. Minimum roadbed width shall be **16 feet**
- C. Minimum width clearance shall be **20 feet**
- D. Minimum height clearance shall be **14 feet**
- E. The maximum grade shall be **10% (10 Feet in 100 Feet)**
- F. The minimum setback from lot lines shall be **10 feet**
- G. Roadbed
The roadbed shall consist of **4 inches** of coarse base material covered with **4 inches** of compacted crushed $\frac{3}{4}$ inch gravel or limestone.
- H. Turnarounds
 - 1. At the end of any driveway, that is greater than 500 feet in length, a method shall be provided to allow turnaround of service and emergency vehicles.
- I. Any variance from the requirements of this ordinance must have prior approval from the Town Board or its designee.

14.0307 Culverts

The Town Board's designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s).

- A. The culvert(s) shall be of galvanized steel or material of equivalent strength and endurance and a size adequate to insure proper drainage, with a minimum drop of 2" across the highway.
- B. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert.
- C. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0308 Bridges

Bridges require engineer-certified or DNR specifications and load ratings.

14.0309 Limits of Construction and Maintenance

All portions of the driveway, including the approach, culvert and ditch, between the edge of the highway shoulder and the right of way line shall be constructed and maintained by and at the expense of the driveway owner except modifications made during town road improvement projects.

14.0310 Applicability

This ordinance shall apply to all driveways; the construction of which is completed after the effective date of this ordinance.

14.0311 Driveway Construction Permit

The driveway construction permit does guarantee that if the permit specifications are met and construction complies with the standards outlined in this ordinance and on the Permit, the applicant will not be liable for damages to the town road after construction is completed.

- A. **A landowner** who has purchased vacant property (for example, for hunting, camping, hiking, etc.) with no intention of farming or building any improvements must construct a driveway that at a minimum will allow parking off the town road right-of way. A permit must be obtained from the Town Board's designee and the driveway must meet all applicable standards for location, slope, drainage, size of culvert, and surface preparation outlined in Section 14.0501 above.
- B. **Existing Driveway:** If a landowner alleges that a driveway exists that is presently serving open land without improvements and that now an application is being filed for a building permit for a structure which will be served by that alleged driveway, the Town Board's designee will examine the existing driveway to determine if it is adequate to meet the specifications of this ordinance. The designee will either document in writing the existence of an approved driveway or will require changes to bring the driveway up to standard.
- C. **Field Access Road:** A Driveway Construction Permit is required for entry for agricultural purposes into a field or woods that border and or access a town road. Any access to agricultural land from a state and/or county highway will be governed by the Wisconsin Department of Transportation and/or the Marinette County Highway Department. This ordinance has no authority over their conditions or requirements.
- D. **Cabins:** Any property that is developed with seasonally occupied structures (cabins, etc.) and accessory structures must have approved driveways before the land may be subdivided and sold.

14.0312 Conformance to Ordinance

In the event that a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of this ordinance.

14.0313 Placement of Fill

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

14.0314 Procedure and Fees

A. Application for a Permit

Application for a **Driveway Construction Permit** to connect land to a town road should be made to the Town Board's designee. The application will include the legal description of the property, a rough drawing of the proposed driveway site including grade, slope, width, length and erosion control procedures and payment of the required fee. The **Driveway Construction Permit** is effective for 12 months from the date of issuance. The permit shall expire after 12 months unless renewed. The permit may be renewed for one additional 12 month period. If the driveway has not been constructed by the end of this period, a new application must be submitted and approved.

B. On-Site Review

The Town Board's designee will make an appointment to meet with the applicant at the site to discuss the specifics of the driveway. Any specific requirement will be entered on the permit and written permission will be given to begin construction.

C. Variance

A variance to this ordinance can be granted by the Town Board.

D. Costs of Construction

All expenses of construction and materials will be the responsibility of the applicant. Under no circumstances will the Town of Wagner perform the actual work of constructing the driveway or setting the culvert, but the Town Board's designee may require that a town employee be present to oversee the construction.

E. Certification for Safety

The granting of a permit is not certification by the Town of Wagner that the driveway is safe or adequate for use by emergency equipment.

F. Remediation

If the requirements and procedures of this ordinance are not followed and a private driveway is constructed in such a way as to cause damage to the town road or create a hazard to public safety, the Town will require the driveway or field access road be changed to correct these flaws at the owner's expense.

G. Final Inspection

When the driveway is completed, the applicant will notify the Town Board's designee who will then make a final inspection of the driveway, and if the driveway is properly constructed, the Town Board's designee will approve the driveway in writing on the permit.

H. Construction of Driveway Prior to Commencing Building Construction

The Town Board's designee shall determine whether a driveway must be completed prior to commencing construction of any building(s) on the parcel, and may condition any building permit on completion of the driveway for the following reasons:

1. Construction activities are reasonably likely to cause the tracking of soil, gravel, vegetation or other material onto the public roadway.
2. Construction of the driveway is necessary to allow for the safe and efficient access of construction vehicles entering or leaving the construction site.

I. Permit Fee

The fee for a **Driveway Construction Permit** shall be as defined in the Town of Wagner Fee and Penalty Schedule. The **Driveway Construction Permit** includes initial on-site consultation as well as any interim inspections or consultations as necessary and final site inspection and approval.

14.0315 Penalties

- A. Any driveway constructed on land in the Town of Wagner in violation of any of the provisions of this Ordinance shall be deemed to be an unlawful driveway.
- B. Any person who constructs an unlawful driveway, which connects a town road in the Town of Wagner in violation of any provision of the Ordinance, shall incur a penalty as defined in the Town of Wagner Fee and Penalty Schedule. Each day a violation continues without action taken to remedy the situation constitutes a separate offense.
- C. Failure to procure a permit before establishing a driveway shall incur a penalty as defined in the Town of Wagner Fee and Penalty Schedule.
- D. Any person who constructs an unlawful driveway, which connects a state or county highway on land in the Town of Wagner, will be subject to any penalties, forfeitures of conditions established by the State of Wisconsin and/or Marinette County.
- E. Any physical changes required by the Board of the Town of Wagner to an unlawful driveway to bring the driveway into compliance with the terms of this Ordinance and the terms of the **Driveway Construction Permit** will be made at the private owner's expense.

14.0400 TOWN HIGHWAY REGULATIONS

14.0401 Purpose

The purpose of this section of the Ordinance is to promote the safety and general welfare of the citizens of the Town of Wagner and others who travel the Town's highways by providing for the orderly layout and construction of Town highways.

14.0402 Definition

Per Chapter 82 of Wisconsin State Statutes, all town roads shall hereafter be termed town highways. A town highway is any highway that the Town of Wagner holds fee simple title to or has prescriptive rights in. Generally, the Town of Wagner considers a highway to be a town highway if it appears on the Town's gas tax map.

14.0403 Permit

To insure compliance with the standards created by this ordinance, no person shall commence construction of any highway which is intended to provide future public access to more than one (1) land owner without providing detailed plans of the proposed highway construction and obtaining a permit for such construction from the Town Board or its designees along with a copy of this ordinance and a typical highway cross section. All costs incurred by the Town in the development and construction of said highway shall be born by the private landowner(s) or developer.

14.0404 Highway Name

New highway names shall not duplicate the names of existing highways, but highways that are continuations of others already in existence and named, shall bear the names of the existing highways. Highway names shall be assigned as set for the in Chapter 82.03(7) of the Wisconsin Statutes and shall be subject to approval by the Town Board.

14.0405 Right of Way

All Town highways shall have a right of way width of **66 feet**.

14.0406 Clear Zone

A minimum clear cut width of not less than 50 feet shall be acceptable. Said clear cut width to be determined by the Town Board or designee at the time of the permit application and site inspection.

14.0407 Length

Highway right of way shall not be less than **500 feet** in length.

14.0408 Cul-de-sac

All dead-end highways regardless of length shall have a solid turnaround with a radius of **50 feet** on the center line of said highway or a "T" type turnaround. Said "T" shall be at right angles to the center line of the highway, have a **66 foot** wide right of way and be not less than **50 feet** long on either side of the highway center line. The Town Board or designee shall be consulted on which method to utilize at the time of the permit application and site inspection.

14.0409 Roadway Width

- A. Town highways with an estimated average daily traffic count of under 100 vehicles shall have minimum road width, driving surface and shoulders, of **24 feet.**
- B. Town highways with an estimated average daily traffic count of 100 to 250 vehicles or more shall have a minimum road width, driving surface and shoulders, of **26 feet.**
- C. Town highways with an estimated average daily traffic count of 251 to 400 vehicles or more shall have a minimum road width, driving surface and shoulders, of **32 feet.**
- D. Town highways with an estimated average daily traffic count of 401 to 1,000 vehicles or more shall have a minimum road width, driving surface and shoulders, of **34 feet.**
- E. Town highways with an estimated average daily traffic count of 1,001 to 2,400 vehicles or more shall have a minimum road width, driving surface and shoulders, of **44 feet.**
- F. Town highways with an estimated average daily traffic count over 2,400 vehicles shall be constructed to State trunk highway standards.

14.0410 Construction standards

- A. Sub-Base The entire width of all highways shall have a minimum sub-base of six (6) inches of breaker run covered with four (4) inches of crushed compacted $\frac{3}{4}$ " gravel. More pit run or crushed gravel may be needed to create stability in problem areas.
- B. Surfacing Two options are available. The appropriate application will be determined by the Town Board or designee based on estimated traffic count. Option 1: shall be a minimum two (2) inch compacted Asphaltic Type AC Penetration 120-150 Single Aggregate Bituminous Pavement 18 feet wide. Option 2: shall be a minimum two (2) inches of cold mix compacted 18 feet wide.
- C. All surfacing shall be crowned a minimum of 1 $\frac{3}{4}$ inches higher at the center of the highway to allow water to run to the shoulders.
- D. Gravel shall be applied to the shoulder to be flush with the paved area.
- E. All top soil, muck and foreign material, stumps, old culverts, large rocks, etc., shall be removed and replaced with sand or pit run and brought up to grade before the sub-base shall be applied.

14.0411 Ditches

Town highways shall be a ditch on each side, the bottom of which shall be at least one foot below the bottom of the sub-base. Deeper ditches may be necessary to provide adequate drainage. The Town Board or designee shall determine if a ditch is needed.

14.0412 Back and Side Slopes

All highways shall have an 8 foot side slope with 4 to 1 pitch, except where geographic features or terrain would not allow for same as determined by Town Board or designee. Back slope shall be a maximum of 2 to 1 pitch. **(See Section 14.0418 - Figure 1)**

14.0413 Culverts

The Town Board or designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s). The galvanized steel culvert(s) shall be of a size adequate to insure proper drainage, with a minimum drop of 2" across the highway. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0414 Curves and Inclines

All curves and inclines shall be constructed in accordance with the standards set forth in Section 86.26 of the Wisconsin Statutes which standards are incorporated herein by reference.

14.0415 Seeding

All disturbed areas (ditches, back slopes and fills) within the highway right of way not provided with surfacing and shouldering material shall be seeded for permanent cover, and protected by erosion control materials.

14.0416 Highway Survey

All applications for Town highways shall be accompanied by a survey of said highway with a corresponding legal description. Said survey shall be performed by a registered land surveyor. The cost for said survey to be the responsibility of the private land owner and/or developer.

14.0417 Required Inspections

Continual inspection of highways by the Town Board or designee during all phases of construction is necessary if the highway is to be considered for addition to the Town Highway System. A minimum of three inspections must take place at the following phases of construction:

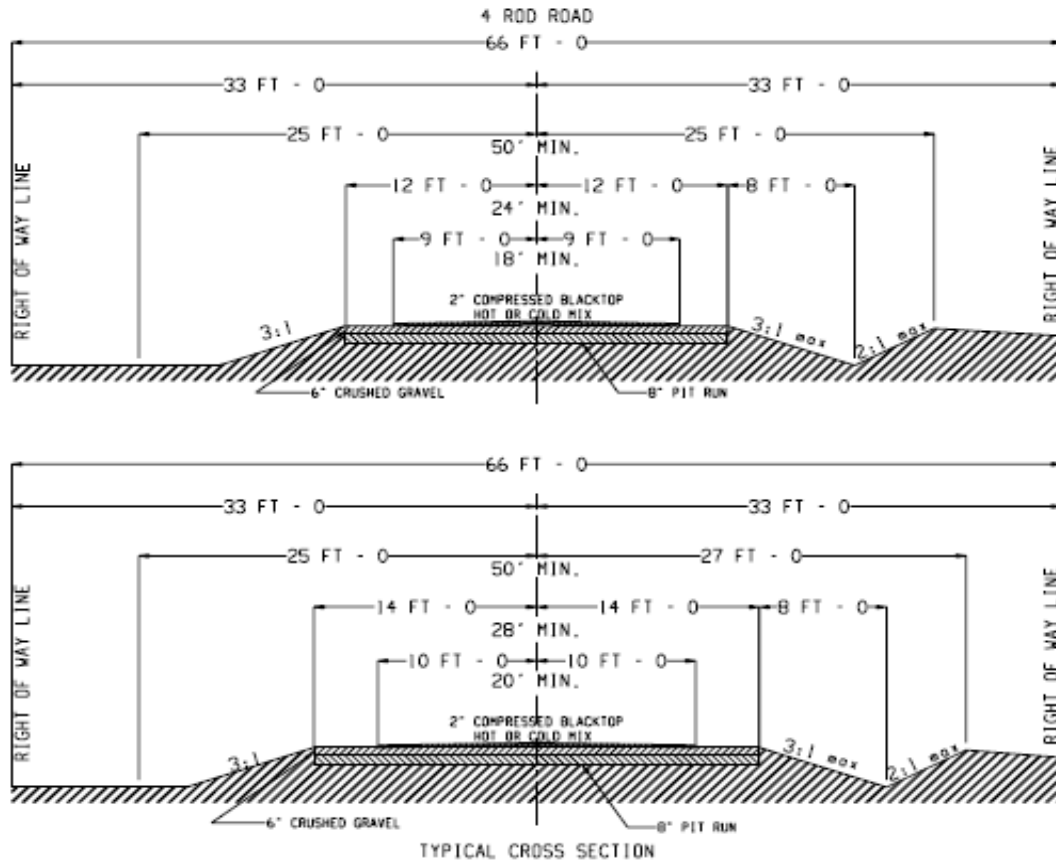
- a. Sub-base grading
- b. Crushed aggregate base course; and
- c. Bituminous surface course

An inspection report and recommendation of approval will be given to the full Town Board at which time the Board will approve each phase of construction. The highway will be accepted as a Town highway only after final approval by the Town Board and the receipt of a warranty deed conveying title of the entire right of way to the Town of Wagner, or through plat dedication per Chapter 236 of Wisconsin Statutes.

14.0418 Typical Road Cross Section

Attached hereto and made a part of this ordinance.

Figure 1: Typical Road Cross Section



14.0419 Applicability

This ordinance shall apply to all highways; construction of which is completed after the effective date of this ordinance and all existing highways which may in the future become dedicated for public use or submitted to the Town as a Town highway.

14.0420 Variance

A variance to this ordinance can be granted by Town Board action.

14.0421 Violation and Penalty

Any person or firm or corporation who violates this ordinance shall pay a forfeiture of not less than \$10.00 nor more than \$200.00, together with the costs of prosecution, or in default of payment thereof by imprisonment in the Marinette County Jail for a term of not more than 30 days. Until such time as this ordinance is complied with, each day of the violation shall constitute a separate offense.

14.0422 Signing

No signs are required; signing will be done by the Town.

14.0500 REGULATION OF PRIVATE ROADS

14.0501 Purpose

To insure that all individuals purchasing or already owning property abutting a private road clearly understand the provisions regarding maintenance and/or improvement of said road.

14.0502 Definition

A private road is defined as a privately owned strip of land which serves as access to more than three (3) parcels of land and/or residences; title to said parcels of land are not held by the same individuals(s). If said road serves more than three (3) parcels of land and/or residences it is considered a private road.

14.0503 Permit

To insure compliance with the standards created by this ordinance, no person shall commence construction of any private road which is intended to provide access to more than three (3) landowners without providing detailed plans of the proposed private road construction and obtaining a permit for such construction from the Town Board or its designees, along with a copy of this ordinance. All costs incurred by the Town in the development and construction of said private road shall be born by the private landowner or developer.

14.0504 Road Name

New road names shall not duplicate the names of existing roads, but roads that are continuations of others already in existence and named shall bear the names of the existing roads. Road names shall be subject to approval of the Town Board.

14.0505 Right of Way

Private roads shall have a 66 foot wide easement right of way width.

14.0506 Cul-de-sac

All dead-end private roads regardless of length, shall have a solid turnaround with a radius of 50 feet on the center line of said private road or a "T" type turnaround. Said "T" shall be at right angles to the center line of private road, have a 66 foot wide right of way and be not less than 50 feet long on either side of the private road center line. The Town Board or designee shall be consulted on which method to utilize at the time of the permit application and site inspection.

14.0507 Private Road Width and Height

Private roads shall have a minimum clear cut width of 24 feet, with a minimum driving surface of 20 feet, and a minimum height clearance of 14 feet.

14.0508 Construction standards

- A. Sub-Base. The entire width of all private roads shall have a minimum sub-base of six (6) inches of breaker run covered with four (4) inches of crushed compacted $\frac{3}{4}$ " gravel. More pit run or crushed gravel may be needed to create stability in problem areas.
- B. All top soil, muck and foreign material, stumps, old culverts, large rocks, etc., shall be removed and replaced with sand or pit run and brought up to grade before the sub-base shall be applied.

14.0509 Ditches

Private roads shall have a ditch on each side, the bottom of which shall be at least one foot below the bottom of the sub-base. Deeper ditches may be necessary to provide adequate drainage. The Town Board or designee shall determine if a ditch is needed.

14.0510 Back and Side Slopes

All private roads shall have an 8 foot side slope with 4 to 1 pitch, except where geographic features or terrain would not allow for same as determined by Town Board or designee. Back slope shall be a maximum of 2 to 1 pitch. (See Section 18 for Typical Cross Section.)

14.0511 Culverts

The Town Board or designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s). The galvanized steel culvert(s) shall be of a size adequate to insure proper drainage, with a minimum drop of 2" across the road desired. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0512 Curves and Inclines

All curves and inclines shall be constructed in accordance with the standards set forth in Section 86.26 of the Wisconsin Statutes which standards are incorporated herein by reference.

14.0513 Seeding

All disturbed areas (ditches, back slopes and fills) within the private road right of way not provided with surfacing and shouldering material shall be seeded for permanent cover, and protected by erosion control materials.

14.0514 Maintenance

All persons requesting approval of a private road, shall first have said private road surveyed by a registered land surveyor. The registered land surveyor shall provide the property owner with an Affidavit of Private Road which shall be executed in such written form as it entitled to recording in the office of the Register of Deeds in Marinette County, Wisconsin. Said affidavit shall show the private road as surveyed, the legal description for the private road, and the private road certificate which shall read as follows:

“The undersigned hereby requests the Town Board of the Town of Wagner to grant permission to the undersigned to name private road legally described hereon, and hereby state that it is understood and agreed that such road is a private road which will not be entitled to either maintenance or improvement by the Town of Wagner at any time now or in the future unless and until such road has been dedicated to and accepted by the Town of Wagner as an appropriate public highway pursuant to the then applicable ordinance governing acceptances of such highway.”

14.0515 Required Inspections

Continual inspection of private roads by the Town Board or designee during all phases of construction is necessary if the private road is to be considered a private road. A minimum of two inspections must take place at the following phases of construction:

- A. Sub-base grading
- B. Crushed aggregate base course

14.0516 Frontage

All lots fronting on a private road shall extend to the center of the private road.

14.0517 Affidavit of Private Road

All Affidavits of Private Roads shall have Town Board approval before recording in the office of the Marinette County Register of Deeds.

14.0518 Variance

A variance to this ordinance can be granted by Town Board action.

14.0519 Penalty

No building permit for construction of any kind will be issued until such time as the above criteria have been met.

14.0600 DEFINITIONS

For the purpose of this ordinance the following definitions shall be used:

Connection means the portion of the driveway that connects through the public right of way to a public roadway.

Driveway is a private road, field access road, or other avenue of vehicular travel that runs through any part of a private parcel of land and that connects or will connect to a public highway or private road.

Driveway Construction Permit is a permit to construct a private driveway from a town road, through the public road right of way to private property, issued by the Town of Wagner.

Dwelling A building, structure, or portion there, including a mobile home, designed or used exclusively for residential occupancy, including manufactured home, modular homes, single family dwellings, two-family dwellings, and multiple-family dwellings.

Field Access Road is a road used only for agricultural purposes or to access agricultural land.

Owner/Landowner is the Party who has legal title to the land or the designated agent of same.

Parcel means contiguous land under the control of a land divider not separated by streets, highways, navigable rivers, or railroad right-of-way.

Private Road Construction Permit is a permit to construct a private roadway from a town road, through the public road right of way to private property. Issued by the Town of Wagner.

Private Road is a privately owned strip of land serving as access from a public highway to more than three (3) parcels of land and or residences (driveways); title to said parcels of land are not held by the same individual(s). If said road serves more than three (3) parcels of land and or residences it is considered a private road.

Subdivision is a division of a lot, parcel or tract of land by the owner thereof of the owner's agent for the purpose of sale or of building development, where:

1. The act of division creates 5 or more parcels or building sites or
2. Five or more parcels or building sites are created by successive divisions within a period of 5 years.

Town Highway is any Public Highway that the Town of Wagner holds fee simple title to or has prescriptive rights in. Generally, Town of Wagner considers a highway to be a town highway if it appears on the Town's gas tax map.

Town Right-of-Way is the strip of land over which a public road is built. Town of Wagner roads are presumed to be four (4) rods (66 feet) in width unless originally deeded to the town with a lesser width specified.

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**CODE OF ORDINANCES
OF THE
TOWN OF WAGNER
MARINETTE COUNTY, WISCONSIN**

CHAPTER 15: NUISANCE ORDINANCE

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CHAPTER 15: NUISANCE ORDINANCE

15.0100 TITLE

This ordinance is entitled “NUISANCE ORDINANCE” and is part of the *Code of General Ordinances of the Town of Wagner, Marinette County, Wisconsin*.

15.0200 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the boundaries of the Town of Wagner, Marinette County, Wisconsin.

15.0201 Public Nuisances Defined

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- B. In any way render the public insecure in life or in the use of property; or
- C. Greatly offend the public morals or decency; or
- D. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

15.0202 Public Nuisances Affecting Health Prohibited

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definitions herein listed.

- A. Adulterated food
All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses
Of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Paunch manure
The undigested food in a cow's stomach at the time of slaughter, provided by slaughterhouses to farmers for use as fertilizer.
- D. Dilapidated or Damaged Buildings And Structures

Any structure that has suffered significant damage or deterioration either from age, lack of care, or abandonment or natural or manmade calamity to the degree that the exterior of the building walls, roof, doors and windows are burnt out, falling down, or are significantly patched or boarded or are structurally unsound and thereby pose a health and safety risk to the public.

E. Breeding Places for Vermin, Etc

Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing materials, scrap metal or any materials in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.

F. Water pollution

The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.

G. Street pollution

Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the town.

15.0203 Public Nuisances Affecting Peace and Safety

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of 15.0201.

- A. Animals: all exotic, non-native reptiles and animals that are housed in the town.
- B. Obstruction of intersections: all trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public roads, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian cross-walk.
- C. Low hanging tree limbs: all limbs of trees which project over a public walkway less than eight feet above the surface thereof or less than fifteen (15) feet above the surface of a public road.
- D. Noisy animals or fowl: the keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing, or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons with in the town.
- E. Low hanging wires and cables: all wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
- F. Noises or vibrations: all unnecessary, loud and discordant, noises or vibrations of any kind.

- G. Obstructions of streets; excavation: all obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under same, except as permitted by ordinances of the of which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.
- H. Open and unguarded pits, well, etc.: all open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk. Pits exclude legally existing sand and gravel pits.
- I. Abandoned refrigerators, freezers: all abandoned refrigerators or freezers from which the doors and other covers have not been removed or which cannot be opened by pushing from the inside by a small child.
- J. Structure or material which constitutes a fire hazard: any structure, material, or condition which constitutes a fire hazard or will impair the extinguishing of any fire.
- K. Dangerous signs, billboards, and etc.: all signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- L. Unauthorized traffic signs: all unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be, or may be mistaken as', official traffic control devices, railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
- M. Abandoned autos, trailers, and etc.: automobiles, trailers, semi-trailers, motor homes, or mobile homes which are abandoned, as defined in section 15.0204 of this code.
- N. Storage of junk, etc., regulated: no person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood.
- O. Any nuisance: any nuisance so defined by the Wisconsin State Statutes.

15.0204 Open Storage of Junk And Abandoned Vehicles

- A. All automobiles, machinery, implements, equipment, any parts thereof, and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is declared to be a nuisance and dangerous to the public health, safety, and well-being.
- B. No person shall leave an unsheltered accumulation or storage of old, unused, stripped, junked, automobiles and other vehicles and equipment that is not in good and safe operating condition, in public view from any state, county, or local town road, nor in view from any adjoining property.

- C. The owner, tenant, lessee and occupants of any lot upon which such accumulation or storage is made and the owner and lessee of the items involved in such storage, all referred to collectively as "owners", shall jointly and severally abate the nuisance by promptly moving such items into completely enclosed buildings within the town, or by moving the items to a location outside the town.

Whenever the owners fail to abate the nuisance, the Town shall move such items to a location of its selection, and the expense therefore shall be billed to the owners, jointly and severally, which bill shall be recoverable through the tax roll. When such items have been removed and placed in storage by the Town, they shall be sold by the Town after the lapse of such time as provided. If the proceeds of such sale are insufficient to pay the costs of abatement, the owners shall be jointly and severally liable to the Town for the balance of the costs to be recoverable in a suit of law. If the proceeds are in excess of costs, the balance shall be paid to the owners or deposited with the Town for their use.

15.0205 Public Nuisances Offending the Morals And Decency

The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency within the definition of Section 15.0201.

- A. Gambling devices: all gambling devices and slot machines.
- B. Unlicensed sale of liquor and beer: all places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the town.
- C. Continuous violations of town ordinances: any place or premises within the district where town ordinances or state law relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly, and intentionally violated.

15.0300 ABATEMENT OF PUBLIC NUISANCES

15.0301 Enforcement

Before any action is acted upon, a written and signed complaint must be filed with the Zoning administrator and/or Town Board. The Zoning Administrator, or other Town Officer as designated by statute or appointment by the Town Board, shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this subsection to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does, in fact, exist.

15.0302 Summary Abatement

If the inspecting officer determines that a public nuisance exists within the Town

and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Board may direct that a notice be served on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

15.0303 Abatement After Notice

If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance(s) to be removed.

15.0304 Other Methods Not Excluded

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

15.0305 Court Order

No officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

15.0306 Cost of Abatement

In addition to any other penalties imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town, including attorney fees, shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

15.0307 Penalty

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as follows per 15.0308: Penalty Provisions.

15.0308 Penalty Provisions

A. General penalty

Any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a' penalty, which shall be as follows:

1. First Offense – Penalty

Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than fifty (\$50.00) nor more than

five hundred dollars (\$500.00), together with the costs of prosecution, including Town's attorney fees, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

2. Second Offense – Penalty

Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one (1) year shall upon conviction thereof, forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense, together with the costs of prosecution, including Town's attorney fees, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

B. Continued violations

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

C. Execution against defendant's property

Whenever Any Person Fails To Pay Any Forfeiture And Costs Of Prosecution Upon The Order Of Any Court For Violation Of Any Ordinance Of The Town, The Court May, In Lieu Of Ordering Imprisonment Of The Defendant, Or After The Defendant Has Been Released From Custody, Issue An Execution Against The Property Of The Defendant For Such Forfeiture And Costs.

15.0309 Repealer

Any previous ordinance or resolution of the Town Board contrary or in conflict with the regulations contained in this Ordinance is hereby amended or rescinded as may be necessary to fully and completely effectuate the regulations contained herein.

15.0310 Effective Date

This ordinance shall take effect the day after passage and publication as provided by Law.

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