

## **ARTICLE I: INTRODUCTION**

### **XX - 1 Authority**

The provisions of this Ordinance are adopted by the Town of Mitchell pursuant to the authority granted by Sections 60.62, 61.35 and 62.23(7), Wisconsin Statutes. The Board of Supervisors of the Town of Mitchell, Sheboygan County, Wisconsin does Ordain as follows:

### **XX - 2 Title**

This Ordinance shall be known as, referred to or cited as the "Town of Mitchell Zoning Ordinance".

### **XX - 3 Purpose and Intent**

This Ordinance is adopted for the following purposes:

- To promote and protect the public health, safety, morals, comfort, convenience and general welfare;
- To minimize congestion in the public rights-of-way, promote safety from natural and man-made disasters, provide for adequate light and air, and avoid undue concentration of population;
- To facilitate the adequate, efficient and cost-effective provision of public services and facilities;
- To encourage the use of lands and natural resources in accordance with their character and adaptability by utilizing special land features, such as slope, topography, soils, vegetation, wetland areas and wildlife;
- To conserve the natural scenic beauty and attractiveness of the Town, and to enhance the aesthetic desirability of the environment;
- To divide the Town into districts within which the location, sizes and uses of buildings and minimum open spaces shall be regulated;
- To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified districts;
- To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this Ordinance;
- To provide for the compatible and appropriate use of land throughout the Town;
- To provide for the administration of this Ordinance and its amendments;
- To define the powers and duties of the officers and bodies charged to administer this Ordinance; and
- To describe penalties for the violation of provisions of this Ordinance or any of its amendments.
- To implement the recently adopted Town of Mitchell Comprehensive Plan.

### **XX - 4 Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing private easements, covenants, deed restrictions or agreements, nor any ordinances, rules, regulations or permits previously adopted or issued pursuant to law except as provided in Sec. **XX - 7**. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

**XX - 5 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Town of Mitchell and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**XX - 6 Severability**

If any provision of this Ordinance held to be invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

**XX - 7 Effective Date**

This Ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

**XX - 8 through XX – 9 Reserved for Future Use**

## **ARTICLE II: GENERAL PROVISIONS**

### **XX - 10 Establishment of Districts**

For the purposes of this Ordinance, the Town of Mitchell is divided into eight (8) zoning districts, designated as follows:

- AG-1 Large Parcel General Agricultural
- AG-2 Animal Intensive Agricultural
- AG-3 Smaller Parcel General Agricultural
- R-1 Small Lot Residential
- R-2 Large Lot Residential
- BC-1 Business or Commercial and Manufacturing or Industrial
- P-1 Park and Recreational
- IN-1 Institutional

### **XX - 11 Zoning Map**

The boundaries of the zoning districts are hereby established as shown on the “Official Zoning Map of the Town of Mitchell, Sheboygan County,” adopted and incorporated herewith by reference. The Official Zoning Map shall be on file and available for public inspection at the office of the Town Clerk, Town of Mitchell. The Official Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

### **XX - 12 Interpretation of District Boundaries**

When uncertainty arises concerning the boundaries of the zoning districts, the following rules shall apply:

1. Where district boundaries are depicted as approximately following the center lines of streets, highways, or road right-of-way lines, or center lines of streams or drainage ways, such center lines shall be constructed to be such boundaries.
2. Where district boundaries are depicted as approximately following lot lines, such lot lines shall be constructed to be such boundaries.
3. Where district boundaries are depicted as running parallel to center lines of streets, highways or road right-of-way lines, such parallel lines shall be constructed to be such boundaries at a distance from the center lines that fulfills the intent of drawing such lines.
4. Where boundaries do not follow property lines and distances are not specified, boundaries shall be interpreted by the decision-making body.

### **XX - 13 Relationship to County Zoning Ordinances**

Where lands within the Town of Mitchell are also subject to Sheboygan County zoning regulations including, but not limited to shoreland, wetland and floodplain zoning, the most restrictive regulations shall be applied.

### **XX - 14 Uses Regulated**

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not particularly specified

in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.

#### **XX - 15 Lot Size**

No lot shall be reduced in size such that the lot no longer complies with the minimum lot size requirements specified for the district in which it is located.

#### **XX - 16 Height Requirements; Exceptions**

No structure shall hereafter be constructed or altered in such a way that it does not comply with the height, bulk, yard or setback requirements specified for the district in which it is located.

1. **Height Exceptions for Specific Buildings.** Churches, schools, hospitals and other public and quasi-public buildings may be erected to a maximum height of forty (40) feet, provided that the front, side and rear yards required in the applicable district are each increased at least one foot for each additional foot of building height above the maximum height otherwise applicable in the district.
2. **Height Exceptions; Other Structures.** Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, ornamental towers, spires, masts, accessory structures and improvements consistent with agricultural uses, power transmission poles and lines, and towers other than those regulated by Sec. **XX - 41** are excepted from the height requirements of this Ordinance.

#### **XX - 17 Area and Bulk Requirements; Exceptions**

The minimum size of a residential structure shall be nine hundred (900) square feet of living area. No part of a yard or other open space required in connection with any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building. No accessory structure, or portion thereof, shall be erected or extended into a required yard except as allowed by Sec. **XX - 51**, Accessory Uses and Structures. No principal structure, or portion thereof, shall be erected or extended into a required yard except for the following:

1. **Fire Escapes.** Open or enclosed fire escapes may project into a required yard not more than five (5) feet.
2. **Customary Architectural Features.** Cornices, belt coursed and other ornamental features may project into a required yard not more than one foot.
3. **Bus Shelters.** Bus shelters may be located within a required yard, so long as no portion of the structure is located within a road right-of-way.

#### **XX - 18 One Principal Structure Permitted Per Lot**

No more than one principal structure shall occupy a single lot, except where a lot or tract is used for public, institutional, commercial or industrial purposes, or as provided in the AG-1, AG-2, and AG-3 Districts. In such cases, all buildings shall conform to all yard/setback requirements around the lot specified for the district in which the lot is located.

#### **XX - 19 Frontage Requirements**

All lots shall have a minimum sixty-six (66) foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for

construction of any principal structure the lot must comply with the minimum lot width requirements specified for the applicable zoning district.

### **XX - 20 Dedicated Roadway**

No permits shall be issued for a lot that abuts a public roadway dedicated to only a portion of its proposed width and located on that side of the roadway from which the required dedication has not been secured.

### **XX - 21 Lots Abutting More Restrictive Districts**

Except for lots in the R-1 District, lots abutting districts with more restrictive (i.e. greater) side yard requirements shall provide side yards no less than that required in the more restrictive district.

### **XX - 22 Mobile Structures Prohibited**

Mobile homes, mobile structures or other vehicles for human occupancy are prohibited as principal or accessory structures or uses in all districts except as temporary offices for contractors on a construction site.

### **XX - 23 Site Regulations**

1. **Site Suitability.** No land shall be used or structure erected which is held unsuitable for any proposed use by the appropriate decision-making body for reason of flooding, inadequate drainage, soil and rock formations with severe limitations of redevelopment, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of current and future residents of the Town. In addition:
  - a. No lot served by public sanitary sewer facilities shall have less than fifty (50) percent of its required lot area below an elevation at least two (2) feet above the elevation of the 100-year recurrence interval floodplain.
  - b. Every lot served by an on-site sanitary sewage disposal system shall have at least one (1) acre in area that does not lie within floodlands.
  - c. All lots more than one (1) acre in area served by an on-site sanitary sewage disposal system shall contain not less than forty thousand (40,000) square feet of land which is at least two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.
  - d. Lands made, altered, or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by on-site soil absorption sanitary sewage disposal systems.
  - e. Each lot or dwelling unit shall be capable of meeting the requirements of the Sheboygan County Sanitary Code and the Wisconsin Administrative Code regarding the construction of on-site sewage disposal systems.
  - f. For the purposes of this ordinance, a deck shall be considered a part of the building or structure.
2. **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving the natural patterns of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater

than one and one-half (1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, or which would alter existing drainage pattern to adversely impact abutting properties except with the written consent of the owner of the affected properties and with the approval of the appropriate decision-making body. All slopes shall be protected against erosion, and in no case shall any slope exceed the normal angle of slippage of the material involved.

3. **Public Sanitary Sewerage and Private Sewage Disposal Systems.** When a proposed use requires sanitary facilities and public sanitary sewer facilities are available to the lot, the applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to the lot. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of Sheboygan County and any applicable sanitary district. Private holding tanks are expressly prohibited as disposal systems for new construction.
4. **Water Supply Facilities.** When a proposed use requires potable water and public water supply facilities are available to the lot, the applicant shall construct water supply facilities in such a manner as to make adequate public water service available to the lot. When it is proposed to establish a private water supply system to serve the lot, the applicant shall construct water supply facilities to conform to all applicable regulations of the appropriate governing jurisdictions.

**XX - 24 through XX - 29 Reserved for Future Use**

## ARTICLE III: DISTRICT REGULATIONS

**XX - 30 AG-1 Large Parcel General Agricultural District.** The purpose of this district is to provide a zoning district that will allow land owners to receive farmland preservation tax credits from the State.

### 1. Permitted Uses.

Uses permitted by right in this district are:

- a. Farm homes and buildings (the farmstead).
- b. Fields for crop production, pasture lands, or CRP lands.
- c. Fish, fur, or game farms.
- d. Grain storage, drying, or roasting.
- e. Forest or woods.
- f. Animal feeding operations not subject to ATCP 51, Wisconsin Administrative Code with fewer than 1 animal unit per acre.
- g. Greenhouses or plant nurseries.
- h. Housing for temporary farm workers.
- i. One-or two-family residences that score 5 or more points on the residential siting scoring system (see appendix).
- j. Private shooting ranges.
- k. Dog kennels.

### 2. Accessory Uses.

Uses which are generally accessory or incidental to permitted uses in this district are:

- a. Manure storage facilities.
- b. Solar or wind energy facilities for personal use.
- c. Retail sales outlet for fish or game farm or for agricultural products raised on this property or other property in the Town under the same ownership.
- d. Machine or welding shops related to the agricultural use.

### 3. Conditional Uses.

The uses permitted if certain conditions are met are:

- a. Target shooting / hunt clubs if most of their fields continue to be used to raise crops.
- b. Animal feeding operations not subject to ATCP 51 with up to 1 animal unit per acre.
- c. Schools, churches, and cemeteries.
- d. Contractor's shop or warehouse.
- e. Solar and wind energy facilities and communications towers for commercial use (a bond or other financial security will be required to assure the dismantling of the facility or tower if its use is ever discontinued).
- f. Home –based business including rental storage in an existing barn or other outbuilding, bed and breakfast operations, music teaching, day care facilities, service offices, or other home-based businesses provided he business does not produce excessive noise, waste, or pollution.

### 4. Minimum Lot or Parcel Size Requirements.

In this district the minimum lot or parcel size is 35 acres.

### 5. Setback Requirements.

In this district, the building and structure setback requirements are:

- a. General:
  1. Street setback (front yard) -100-feet from the centerline of public roads

2. Side and rear yard setbacks -10-feet or the height of the building or structure, whichever is greater
- b. Special situations, for all setbacks:
  1. Buildings or structures housing animals (including dog kennels), 100-foot minimum
  2. Solar or Wind energy or telecommunications structures, the height of the structure plus 10-feet.

**XX - 31 AG-2 Animal Intensive Agricultural District.** The purpose of this district is to allow land owners to operate confined animal feeding operations (in accordance with ATCP 51) and to be eligible to receive farmland preservation tax credits from the State.

**1. Permitted Uses.**

Uses permitted by right are the same as for the AG-I district.

**2. Accessory Uses.**

Uses which are generally accessory or incidental to permitted uses are the same as for the AG-1 district.

**3. Conditional Uses.**

The uses permitted if certain conditions are met are the same as for the AG-I district except for the following changes:

- a. Delete "Animal feeding operations not subject to ATCP 51 ..." and
- b. Replace it with "Confined animal feeding operations subject to ATCP-51"

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum parcel size is 35 acres

**5. Setback Requirements.**

The building and structure setback requirements for this district are the same as in the AG-1 district except:

- a. Buildings housing animals is split into those for confined animal feeding operations and for other operations with the setback for the other operations being the same as in the AG-I district and for confined animal feeding operations it is set at 500 feet.

**XX – 32 AG-3 Smaller Parcel General Agricultural District.** The purpose of this district is to provide for agricultural pursuits as well as related residences on smaller agricultural parcels in the Town.

**1. Permitted Uses.**

Uses permitted by right in this district are:

- a. The same as for the AG-I district, plus
- b. Boarding stables.

**2. Accessory Uses.**

Uses which are generally accessory or incidental to permitted uses are the same as for the AG-I district with the addition, to the list of home based businesses, bed and breakfast establishments.

**3. Conditional Uses.**

The uses permitted if certain conditions are met are the same as for the AG-I district except:

- a. Delete bed and breakfast establishments.
- b. Delete non-metallic mining operations.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot or parcel size is 10 acres.

**5. Setback Requirements.**

The building and structure setback requirements for this district are the same as for the AG-1 district.

**XX - 33 R-1 Small Lot Residential District.** The purpose of this district is to provide for residential uses on the existing smaller lot developments in the Town.

**1. Permitted Uses.**

Uses permitted by right in this district are:

- a. Single family residences.
- b. Agricultural fields (but not the raising of horses or farm-type or exotic animals).

**2. Accessory Uses.**

Uses which are generally accessory or incidental to permitted uses in this district are:

- a. Buildings or uses normally incidental to the residence on the property such as a garage or storage shed for use by the occupants of the residence.
- b. Keeping of up to 3 normal household pets (for example: dogs, cats, birds, and similar).
- c. Personal use greenhouse.
- d. Solar energy system for personal use.

**3. Conditional Uses.**

The uses permitted if certain conditions are met include:

- a. Public or private schools.
- b. Keeping or raising of 4 or more dogs or other household pets.
- c. Truck gardening and a farm stand (retail sales outlet) for the agricultural products raised on the property.
- d. Home based businesses such as antique shop, day care facilities, music teaching, service offices, veterinarian or pet care businesses (without boarding facilities), or light manufacturing business.
  1. Occupies no more than 25% of the home.
  2. Employs no more than 1 person who is not a resident of the home.
  3. Does not require any specialized equipment or utility services.
  4. Has customers and truck delivery services only occasionally coming to the business.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot or parcel size is the size of the parcel as it existed on March 23, 1998, three (3) acres.

**5. Setback Requirements.**

In this district, the building and structure setback requirements are the same as in the AG-1 district except the street setback (front yard) is reduced to 75-feet from the centerline of public roads or private road easements.

**XX - 34 R-2 Large Lot Residential District.** The purpose of this district is to provide a place for one-and two-family residential uses on lots that meet the current minimum lot requirements in the Town.

**1. Permitted Uses.**

Uses permitted by right in this district are:

- a. Single family and duplex (two-family) residences.
- b. Agricultural fields (but not the raising of horses or farm-type or exotic animals).
- c. Tree fanning.

## **2. Accessory Uses.**

Uses which are generally accessory or incidental to the permitted uses by right in this district are:

- a. Buildings or uses normally incidental to the residence(s) on the property such as a garage or storage shed for use by the occupants of the residence.
- b. Keeping of up to 3 normal household pets (for example: dogs, cats, birds, and similar).
- c. Personal use greenhouses.
- d. Home based businesses such as music teaching, daycare facilities, or antique shop if the business:
  1. Occupies either no more than 25% of the home or, if in a normal accessory structure, no more than 25% of the total floor area of all the structures on the property.
  2. Employs no more than 2 people who are not residents of the home.
  3. Either requires no special equipment or, if it does, the specialized equipment does not produce excessive noise, waste, or pollution.
  4. May require specialized utility services.
  5. Has customers and truck delivery services only occasionally coming to the business.
  6. Truck gardens and buildings incidental to an agricultural use on the property such as a retail sales outlet (farm stand) for sale of the agricultural products raised on this property.
  7. Solar energy system for personal use.

## **3. Conditional Uses.**

The uses permitted if certain conditions are met are:

- a. Private shooting ranges.
- b. Animal feeding operations not subject to ATCP 51 with up to 1 animal unit per acre.
- c. Schools, churches, and cemeteries.
- d. Meeting halls.
- e. Wind energy facilities for personal use.
- f. Plant nurseries.
- g. Home based businesses including such light industrial uses as rental storage in an existing outbuilding, contractors shop or warehouse, or machine shop; service offices; bed and breakfast operations; Veterinarian office or pet care facility; and similar if they generally met the requirements for accessory uses except that the business:
  1. Employs no more than 4 people who are not residents of the home.
  2. Has customers and truck delivery services visiting the business frequently, but not daily.
  3. Is located in a specialized building on the property.

## **4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot size is:

- a. 3 acres for a single family residence.
- b. 6 acres for a duplex (two-family) residence.
- c. 5 acres for a single family residence if there is the keeping of horses or farm-type or exotic animals (the number of animals is subject to the Town's current regulations on the number of animals able to be kept on such property).

## **5. Setback Requirements.**

The building and structure setback requirements for this district are the same as for the AG-I district except the street setback is stated as being from the centerline of the public road or private road easement.

**XX - 35 C-I Commercial District.** The purpose of this district is to provide for commercial uses in the Town where their impact on neighboring properties can be shown to be minimal.

**1. Permitted Uses.**

Uses permitted by right in this district are:

- a. Restaurants, meeting halls, or taverns.
- b. Retail shops.

**2. Accessory Uses.**

Uses that are clearly incidental to a conditional use that has been authorized for a property would be allowed as an accessory use.

**3. Conditional Uses.**

The uses permitted if certain conditions are met include:

- a. Commercial storage or mini-storage facilities.
- b. Automobile sales, service, or repair.
- c. Stand along day care facilities, offices, or music teaching.
- d. Commercial greenhouses or plant nurseries.
- e. Veterinarian or pet care facilities or boarding stables.
- f. Motel or other transient rental lodgings.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot size is five (5) acres.

**5. Setback Requirements.**

In this district, the building and structure setback requirements are as in the AG-I district.

**XX - 36 P-I Park and Recreational District.** The purpose of this district is to recognize the land in recreational uses in the Town including those within the Kettle Moraine State Forest, Wisconsin DNR and U.S. Fish and Wildlife Services' properties, and the Town Park.

**1. Permitted Uses.**

The uses permitted by right in this district are:

- a. Agricultural fields (but not the raising of animals).
- b. Forests or woodlands.
- c. Recreational facilities such as:
  - 1. Ball fields.
  - 2. Lookout towers.
  - 3. Boat launch.
  - 4. Dog training fields.
  - 5. Hiking, biking, snowmobile, or horseback riding trails.
- d. Picnic facilities including waysides and shelters.
- e. Playground equipment.
- f. Interpretive signs.

**2. Accessory Uses.**

Uses which are generally accessory or incidental to the permitted uses, for example, a storage building for a ball field, parking lots, restroom facilities, and similar.

**3. Conditional Uses.**

The uses permitted if certain conditions are met are:

- a. Seasonal dwelling.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot size is 6-acres.

**5. Setback Requirements.**

In this district, the building and structure setback requirements are:

- a. Street setback (front yard) -100 feet from the centerline of a public road.
- b. Side and rear yard setbacks -10-feet or the height of the building or structure, whichever is greater.

**XX – 37 IN-1 Institutional District.** The purpose of this district is to recognize the lands occupied by the Kettle Moraine Correctional Institute.

**1. Permitted Uses.**

The use permitted by right in this district are a state prison

**2. Accessory Uses.**

The uses which are generally accessory or incidental to the permitted use such as guard towers, waste water treatment plant including its own sludge storage facility, and similar.

**3. Conditional Uses.**

The uses permitted if certain conditions are met are school facilities and private shooting ranges.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum parcel size is 40 acres.

**5. Setback Requirements.**

In this district the setback requirements are as in the AG-1 district.

**XX – 38 MI-1 Manufacturing District.** The purpose of this district is to provide existing industrial uses in the Town where their impact on neighboring properties can be shown to be minimal.

**1. Permitted Uses.**

Uses permitted by right in this district are:

- a. Light manufacturing activities conducted completely within an enclosed building or structure and having no outside storage of raw materials or products (either partially or fully finished).

**2. Accessory Uses.**

Uses that are clearly incidental to a conditional use that has been authorized for a property would be allowed as an accessory use.

**3. Conditional Uses.**

The uses permitted if certain conditions are met include:

- a. Machine or welding shops.

**4. Minimum Lot or Parcel Size Requirements.**

In this district the minimum lot size is five (5) acres.

**5. Setback Requirements.**

In this district, the building and structure setback requirements are as in the AG-I district.

**XX - 39 Reserved for Future Use**

## ARTICLE IV: SPECIAL PROVISIONS

**XX - 40 Farm Animals and Farm-type Animals in Certain Districts.** Unless otherwise specified in this Ordinance, the siting or locating of farm animals and farm-type animals within the R-2 and AG-3 Districts shall be consistent with Chapter 79.

### **XX - 41 Communication Towers and Personal Wireless Service Facilities**

1. **Purpose.** The Town Board finds that regulating matters related to the location and placement of communication towers and personal wireless service facilities is necessary to protect the public health, safety and welfare while accommodating the communications needs of residents and businesses in a manner consistent with federal law. The purposes of Sec. **XX - 41** are to:

- Facilitate the provision of wireless telecommunication services to the residents and businesses of the Town;
- Minimize adverse visual effects of towers through design and siting standards;
- Avoid potential damage to adjacent properties from tower failure through setback requirements;
- Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the Town;
- Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town.

2. **Definitions Related to Personal Wireless Service Facilities**

*ABOVE GROUND LEVEL (AGL):* A measurement of height from the natural grade of a site to the highest point of the structure.

*ALTERNATIVE SUPPORT STRUCTURE:* Structures other than towers that may support personal wireless service facilities antennas, including but not limited to buildings, water towers, steeples, silos or utility poles.

*ANTENNA:* The surface from which wireless radio signals are sent and received by a personal wireless service facility, including directional panel antennas, dishes and omnidirectional “whip” antennas.

*CAMOUFLAGED:* A personal wireless service facility that, due to design or appearance, hides, obscures or conceals the presence of the tower and antennas.

*CARRIER:* A company that provides wireless services. As used in this subsection, “carrier” shall also include companies that build telecommunications towers and lease tower space to carriers.

*CO-LOCATION:* The use of a single support structure by more than one carrier.

*FALL ZONE:* The area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.

*MONOPOLE:* A type of tower that is self-supporting as a single pole design.

*PERSONAL WIRELESS SERVICES:* Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Federal Telecommunications Act of 1996.

*PERSONAL WIRELESS SERVICE FACILITY:* A facility for the provision of personal wireless services.

*SEPARATION:* the distance between one carrier’s antenna array and another carrier’s array.

*TELECOMMUNICATIONS TOWER:* Any structure designed and constructed primarily for the purpose of supporting one or more personal wireless service facility antennas,

including, but not limited to monopoles, guyed towers and lattice towers.

*TOWER, GUYED:* A monopole or lattice tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

*TOWER, LATTICE:* A type of tower that is self-supporting with multiple legs and cross-bracing of structural steel.

*TELECOMMUNICATIONS SUPPORT FACILITY:* An enclosed building, cabinet, shed or box within which are housed batteries, electrical or other equipment necessary for the operation of the personal wireless service facility.

3. **Exemptions.** The following uses are not subject to the provisions of Sec. **XX - 41**:
  - a. Television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunication facility and that the antenna use is accessory to the primary use of the property.
  - b. Antennas and supporting towers, poles and/or masts owned and/or operated by and for federally licensed amateur radio operations.
  - c. Mobile services providing public information coverage of news events of a temporary or emergency nature.
  - d. Any other devices listed as exempt in Section 704 of the Federal Telecommunications Act of 1996.
4. **Locational Restrictions.** Wireless communication facilities shall comply with the following locational restrictions:
  - a. Personal wireless services antennas locating on alternative support structures are permitted uses in any District upon receipt of a Site Plan Permit if the highest point of the antenna is thirty (30) feet or less above the highest point of the alternative support structure. A Conditional Use Permit shall be required for locating on an alternative support structure if the highest point of the antenna is greater than thirty (30) feet above the highest point of the alternative support structure or the antenna or support facilities significantly alter the appearance or structure of the alternative support structure.
  - b. Personal wireless service facilities co-locating on existing telecommunication towers are permitted uses upon receipt of a Site Plan Permit, provided that the installation of the new facility does not increase the overall height of the existing structure by more than twenty (20) feet. A Conditional Use Permit shall be required for collocating on an existing tower if the collocated antenna array or equipment increases the overall height of the existing tower by more than twenty (20) feet or significantly alters the appearance or structural integrity of the tower approved and permitted under this Section.
  - c. Temporary telecommunication towers one hundred (100) feet AGL or less in height, and supporting facilities (commonly known as “cells on wheels”), are permitted uses only in the A-1, BD and ID Districts upon receipt of a Site Plan Permit; said Permit shall be for a period not to exceed one year. The applicant’s site plan shall clearly demonstrate that the proposed temporary tower does not pose a public safety hazard.
  - d. Telecommunications towers and their support facilities are permitted uses only in the A-1, BD and ID Districts upon receipt of a Conditional Use Permit and a Site Plan Permit, provided that no Conditional Use Permit for the placement or construction of a telecommunications tower shall be issued unless the applicant presents to the committee credible evidence establishing to a reasonable degree of certainty the following:
    1. No existing telecommunication tower is located within the area in which the applicant's equipment must be located;

2. No existing telecommunication tower within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost;
  3. No existing telecommunication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment, and the deficiency in structural strength cannot be remedied at a reasonable cost;
  4. The applicant's equipment would cause electromagnetic interference with equipment on the existing telecommunications tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing telecommunications tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost;
  5. The fees, costs or contractual provisions required by the owner in order to collocate on an existing telecommunication tower are unreasonable relative to industry norms; or
  6. The applicant demonstrates that there are other factors that render existing telecommunication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new telecommunication tower.
5. **Security for Removal.** The applicant for a Conditional Use Permit for a telecommunication tower shall, prior to issuance of such permit, provide to the Town of Mitchell a performance bond in the amount of twenty thousand (\$20,000) dollars, or an amount equal to a written estimate of the cost of removal prepared by a qualified contractor, or other comparable security to guarantee that the telecommunications tower will be removed when no longer in operation. The Town will be named as obligee in the bond and must approve the bonding company.
  6. **Minimum Separation.** No telecommunication tower shall be located within one thousand, five hundred (1,500) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.
  7. **Development Design Standards.** Wireless communication facilities shall comply with the following standards:
    - a. **Provision of Space on Telecommunications Towers for Co-Location.** All telecommunications towers shall be constructed to physically accommodate and structurally support at least two (2) additional carriers for co-location of other telecommunications facilities. Co-location space need not be available on the tower as initially placed or constructed, provided that the tower will support the later addition of the required number of co-located facilities. The tower owner/operator shall make the co-location spaces available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates that allow the tower owner/operator to recoup the cost of providing the co-location sites and a fair return on investment.
    - b. **Minimum Parcel Size.** If a telecommunication tower and support facilities are the principal use on a separate parcel, the parcel shall meet the minimum lot size requirements of the zoning district in which the land is located. If a tower and support facilities are located on a leased parcel of land that already has a principal use, the facilities shall be considered an accessory use and a smaller

- area of land may be leased provided that all requirements of this ordinance are met.
- c. **Minimum Setbacks for Telecommunications Towers.** The following setback provisions shall be measured from the base of the tower or telecommunications support facilities, unless otherwise stated. If more than one setback standard applies in a particular situation (i.e. lot line and habitable buildings) the greater setback distance prevails.
    1. **Highway Setbacks.** See Sec. **XX - 57**, Highway Setbacks.
    2. **Lot Line Setbacks.** Fifty (50) feet for towers; twenty-five (25) feet for guy wire anchors in the case of guyed towers.
    3. **Setbacks From Habitable Commercial and Residential Buildings.** One hundred twenty-five (125) percent of the height of the tower AGL.
  - d. **Security and Landscaping.** Towers and guy wires shall be surrounded with security fencing or equipped with anti-climbing devices, if appropriate. If located in a highly visible area, the tower and any support facilities shall be landscaped at the L3 level or greater. (See Sec. **XX - 52**, Landscaping and Buffering).
  - e. **Camouflaging.** Camouflaged towers and support facilities are encouraged and may be required in Critical Areas, residential areas, or other sensitive areas as determined by the appropriate decision-making body.
  - f. **Color.** A telecommunications tower shall be painted a non-contrasting color in relation to its environment unless otherwise required by the Federal Communications Commission or Federal Aviation Administration. Towers using unpainted galvanized metal are permitted.
  - g. **Lighting.** Telecommunications towers shall not be artificially lighted unless required by the Federal Aviation Administration or other applicable regulatory body.
  - h. **Signage.** The use of any portion of a telecommunications tower or support facilities for any signs other than warning or equipment information signs is prohibited.
  - i. **Access.** All telecommunications tower sites must be served by an ingress/egress road with a minimum thirty (30) foot right-of-way and turnaround. Existing access points shall be utilized wherever possible. The access point shall be approved by the applicable governmental body with jurisdiction.
8. **Technical Review.** In the event the decision-making body determines that it is necessary to consult with an independent technical expert regarding an applicant's assertion of the existence of factors listed in Sec. **XX - 41(4)(d)** above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the decision-making body shall be grounds for denial or revocation of a Conditional Use Permit. The applicant may provide to the decision-making body the names of consultants that the applicant believes are qualified to assist in resolving the issues before the decision-making body.
  9. **Abandonment.** Permits issued hereunder shall identify the primary type or types of transmission equipment that is to be placed on the subject telecommunication tower. Any telecommunication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of twelve (12) months shall be removed by the holder of the Conditional Use Permit issued under this Section. If the tower is not removed within sixty (60) days of such notification, the Town may remove the tower at the expense of the holder of the Conditional Use Permit.

**XX - 42 Quarrying, Sand and Gravel Pits, Nonmetallic Mining.** The provisions of Chapter 96 are hereby incorporated within the conditional use procedures for the AG-1 and AG-2 zoning districts.

**XX - 43 Adult-Oriented Establishments.** The licensing and permitting of adult-oriented establishments in the Town of Mitchell are addressed in Chapter 94.

**XX - 44 Sludge Spreading Licensing and Storage Facilities.** The siting and licensing of sludge storage facilities and sludge spreading operations is addressed in Chapter 93.

**XX - 45 through XX - 49 Reserved for Future Use.**

## ARTICLE V: REGULATIONS APPLYING TO ALL DISTRICTS

### XX - 50 Nonconforming Uses, Structures and Lots.

1. **Purpose.** The purpose of this subsection is to provide for the gradual elimination of nonconforming uses and structures by allowing short-term maintenance and improvement, but not expansion of nonconformities.
2. **Applicability.** Sec. XX - 50 shall apply to uses, structures and lots that become nonconforming as a result of the enactment of this Ordinance, or any subsequent amendments.
3. **Nonconforming Uses of Land.** A nonconforming use of land may be continued, provided that:
  - a. The use is not enlarged, increased, or extended to occupy a greater area of land or structure than was occupied on the date of adoption of this Ordinance;
  - b. If it is replaced by a conforming use, the nonconforming use may not thereafter be resumed;
  - c. If a nonconforming use ceases for a period of more than twelve (12) months the subsequent use of the land shall be conforming.
  - d. Changes in tenancy, ownership or management of a nonconforming use are allowed, provided there are no changes in the nonconforming use unless those changes bring the use into compliance.
4. **Nonconforming Structures.** A nonconforming structure may remain and be used, provided that:
  - a. The structure is not enlarged or altered so as to increase its nonconformity;
  - b. If moved, the structure shall be made to conform to regulations of this Ordinance; and
  - c. If the structure is damaged or destroyed by more than fifty (50) percent of its replacement value, as determined by the Permit Issuer, the structure must be reconstructed in compliance with the requirements for the zone in which it is located. When a structure is damaged or destroyed by fifty (50) percent or less of its replacement value, a nonconforming structure may be repaired or reconstructed and used as before the time of damage, provided a building permit is obtained and restoration is begun within one year from the date of destruction
5. **Nonconforming Lots.** Any nonconforming single lot, tract or parcel of land that was lawfully created and recorded prior to the adoption of this Ordinance may be used for the purposes permitted by this Ordinance, notwithstanding the minimum lot area, lot width and lot depth required. Any nonconforming lot in common ownership with a contiguous lot on the date of adoption of this Ordinance shall not be used for purposes permitted by this Ordinance unless the lot is combined with the contiguously owned lot and/or combined in a manner adequate to comply with the required minimum lot area, lot width and lot depth as specified for the zone in which the lot is located; provided, that this provision shall not apply to lots in final plats filed prior to the date of adoption of this Ordinance, or lots that contain a dwelling. The owner of combined lots shall apply for a boundary line adjustment to remove boundary lines that are shared by contiguous lots, or to redraw boundary lines so that all contiguous lots become conforming lots.

### XX - 51 Landscaping and Buffering

1. **Purpose.** The Town recognizes the aesthetic, ecological, and economic value of landscaping and requires its use to:

- Promote the reestablishment of vegetation in developed areas for aesthetic, health, and wildlife reasons;
  - Establish and enhance a pleasant visual character that recognizes aesthetics and safety issues;
  - Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting uses;
  - Unify development, and enhance and define public and private spaces;
  - Promote the retention and use of existing vegetation;
  - Aid in energy conservation by providing shade from the sun and shelter from the wind;
  - Restore vegetation to areas disturbed by grading or construction;
  - Mitigate for loss of natural resource values.
2. **Applicability.** This Section consists of a set of landscaping and screening standards and regulations for use throughout the Town. The regulations address materials, placement, layout, and timing of installation.
3. **Landscaping and Screening Standards.** Sec. **XX - 52(3)(a)-(g)** state the presumptive levels of landscaping and screening standards to be applied to proposed land uses throughout the Town. “Low impact,” “Medium impact” and “High impact” refer to a particular non-residential use’s impact on surrounding property. The landscaping standards and, where appropriate, the depth of the landscaping or screening (buffer width) to be required of the proposed use are set forth in Exhibit 1. The buffer width may be included within the required setback. The Town Board recognizes that because of the wide variety of types of developments and the relationships between them found in a rural setting, it is neither possible nor advisable to establish inflexible landscaping and buffering standards. The standards set forth in Sec. **XX - 52(3)(a)-(g)** below are in hierarchical order; standard L1 is presumed to be the least-intensive standard, while F2 is presumed to be the most intensive. The decision-making body may permit deviations from the presumptive requirements of Exhibit 1, by allowing either less-intensive or requiring more intensive landscaping and buffering whenever it is determined that such deviations will satisfy the purposes set forth in Sec. **XX - 52(1)** above. Circumstances that may warrant deviations from these standards include, but are not limited to, lot sizes that result in greater separation of uses, or objectionable impacts greater than those normally associated with a given use.
- a. L1, General Landscaping. The L1 standard is a landscape treatment for open areas. It is intended to be applied in situations where distance is used as the principal means of separating uses or development, and landscaping is required to enhance the area in-between. While primarily consisting of ground cover plants, it also includes a mixture of trees, high shrubs, and low shrubs. The L1 standard has two different requirements for trees and shrubs. Where the area to be landscaped is less than thirty (30) feet deep, the standard is one tree per thirty (30) linear feet. Where the area is thirty (30) feet deep or greater, the requirement is one tree per 800 square feet and either two (2) high shrubs or three (3) low shrubs per four hundred (400) square feet of landscaped area. The shrubs may be grouped with the trees. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- b. L2, Low Screen. The L2 standard is a landscape treatment that uses a combination of distance and low level screening to separate uses or development. The standard is applied where a low level of screening is adequate to soften the impact of the use or development, or where visibility between areas is more important than a total visual screen. The L2 standard requires enough low shrubs to form a continuous screen three (3) feet high. In addition, one tree is required

per 30 lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area.

- c. L3, High Screen. The L3 standard is a landscape treatment that uses screening to provide the physical and visual separation between uses or development. It is used in those instances where visual separation is required. The L3 standard requires enough high shrubs to form a screen six (6) feet high and ninety-five (95) percent opaque year around. In addition, one tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area
- d. L4, High Wall. The L4 standard is intended to be used in special instances where extensive screening of both visual and noise impacts is needed to protect abutting sensitive uses in areas and where there is little space for separation. The L4 standard requires a six-foot high masonry wall along the interior side of the landscaped area. One tree is required per thirty (30) lineal feet of wall or as appropriate to provide a tree canopy over the landscaped area. In addition, four high shrubs are required per thirty (30) lineal feet of wall. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- e. L5, High Berm. The L5 standard is intended to be used in special instances where extensive screening of both visual and noise impacts is needed to protect abutting sensitive uses, and where it is desirable and practical to separate a use by distance as well as sight-obscuring materials. The L5 standard requires a berm between four (4) and six (6) feet high. If the berm is less than six (6) feet high, low shrubs that meet the L2 standard must be planted on top of the berm to assure that the overall screen height is 6 feet. In addition, one tree is required per thirty (30) lineal feet of berm or as appropriate to provide a tree canopy over the landscaped area. Grass or other ground cover plants must fully cover the remainder of the landscaped area.
- f. F1, Partially Sight-Obscuring Fence. The F1 fence standard provides a tall, but not totally blocked visual separation. The standard is applied where a low level of screening is adequate to soften the impact of the use or development, or where visibility between areas is more important than a total visual screen. It is applied in instances where landscaping is not necessary and where nonresidential uses are involved. Fences must be six (6) feet high and at least fifty (50) percent sight-obscuring. Fences may be made of wood, metal, bricks, masonry or other permanent materials.
- g. F2, Fully Sight-Obscuring Fence. The F2 fence standard provides a tall and complete visual separation, and is intended to be used in special instances where complete screening is needed to protect abutting uses, and landscaping is not practical. It is usually applied in nonresidential situations. Fences must be six (6) feet high and one hundred (100) percent sight-obscuring. Fences may be made of wood, metal, bricks, masonry or other permanent materials.

**EXHIBIT 1  
MINIMUM BUFFERING/LANDSCAPING REQUIREMENTS**

Proposed Use	Existing Adjacent Use					
	Agriculture	Single- Two-family	Subdivisions (1)	Low Impact	Medium Impact	High Impact
Agriculture	None	None	None	None	None	None
Single-, Two-family	None	None	None	None	None	None
Subdivisions (1)	L1	L1	None	10 ft./L2	20 ft./L3	25 ft./L3
Low Impact	L1	10 ft./L2	10 ft./L2	None	10 ft./L2	20 ft./L3
Medium Impact	10 ft./L1	20 ft./L3	20 ft./L3	10 ft./L2	None	10 ft./L2
High Impact	10 ft./L2	20 ft./L3	20 ft./L3	20 ft./L3	10 ft./L2	None

(1) Landscaping required around perimeter of subdivision (not individual lots).

When indicated by shading, standard reflects the maximum that may be required. If all or part of the landscaping or buffer have been provided on the adjacent property, the proposed use need provide only that amount which has not been provided on the adjacent property.

**4. Plant Materials.**

- a. Shrubs and Ground Cover. All required shrubs must be of sufficient size and number to meet the required standards within three (3) years of planting. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants. Sod or existing grass may be utilized as ground cover.
- b. Trees. Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of one and three-fourths (1 3/4) inches, measured five (5) feet above the ground, and have a minimum height of eight (8) feet. Evergreen trees at the time of planting must be fully branched and a minimum of six (6) feet in height. In the buffer area between abutting properties, no tree which could be expected to exceed fifteen (15) feet in height at maturity shall be planted within fifteen (15) feet of a property line.
- c. Existing Vegetation. Existing landscaping or natural vegetation may be used to meet the standards, if protected and maintained during the construction phase of the development. When the existing trees are at least twelve (12) inches in diameter, measured five (5) feet above the ground, they may count triple towards meeting the tree requirements of a landscaping standard.
- d. Selection of Materials. Landscape materials should be selected and sited to produce a hardy and drought-resistant landscape area. Generally, plant materials should be those that will withstand the climate conditions of Hardiness Zone 4.
- e. Exceeding Standards. Landscaping materials that exceed the standards may be substituted for the minimums so long as all fence or vegetation height limitations are met, including the vision clearance standards of this Ordinance.
- f. Complying with Standards. It is the applicant's responsibility to show that the landscaping materials proposed will comply with the regulations of this Ordinance.

**5. Installation, Maintenance and Protection.** Plant materials must be installed to current nursery industry standards. Plant materials must be supported when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires or other measures must be removed as soon as the plant can support itself. Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind. A fine may be levied if the landscaping has not been maintained, and new plants required to be planted. All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas.

**6. Landscaped Areas on Corner Lots.** All landscaped areas on corner lots must meet the standards of Sec. **XX - 57(7)**, Vision Clearance Standards. If high shrubs or other sight-obscuring screening is required by a provision of this Ordinance, low screening must be substituted within vision clearance areas.

**7. Landscape Plans.** Landscape plans must be submitted showing all landscaped areas. Plans must be drawn to scale and show type, size, number, and placement of materials. Materials may be identified with both their scientific and common names.

**8. Completion of Landscaping.** The installation of any required landscaping may be deferred during the summer or winter months to the next planting season, but never for more than one year. In this instance, a Temporary Occupancy Permit may be issued prior to the installation of all required landscaping. In all instances, all required landscaping must be installed prior to the issuance of a final Occupancy Permit.

## **XX - 52 Parking and Loading**

1. **Purpose.** This subsection establishes the standards for the amount, location, and development of motor vehicle parking, and standards for on-site loading areas. Other Town Ordinances may regulate other aspects of parking and loading. The regulations controlling parking have the following specific objectives:
  - Provide safe, efficient circulation and movement of motor vehicles;
  - Direct traffic in parking areas;
  - Shade and cool parking areas;
  - Provide a pedestrian access that is protected from auto traffic;
  - Improve and soften the appearance of parking areas;
  - Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones; and
  - Decrease airborne and waterborne pollution.
2. **Applicability.** The regulations of this Section apply to all parking areas in all zones.
3. (3) **Occupancy.** All required parking areas must be completed and landscaped prior to occupancy of any structure except as provided in Sec. **XX - 52**, Landscaping and Screening.
4. **Use of Required Parking Spaces.** Required parking spaces must be available for the use of residents, customers, or employees of the use. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations as allowed by Sec. **XX - 53(7)**. Required parking spaces may not be used for the storage of goods or inoperable vehicles.
5. **Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use. Required parking spaces for nonresidential uses must be located on the site of the use or in parking areas whose closest point is within 300 feet of the site.

6. **Required Parking Spaces.** The minimum or maximum number of parking spaces for all use categories is stated in Exhibit 2. The standards in Exhibit 2 apply unless specifically superseded by other portions of this Ordinance. Alternative standards to those shown in Exhibit 2 may be accepted if the applicant demonstrates that such standards better reflect local conditions. Uses not specifically listed in Exhibit 2 shall be treated as a listed use of a similar nature. Since the purpose of required off-street parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses that might locate at the site over time, the required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.
  - a. The number of parking spaces is computed based on the primary use of the site except as stated in Paragraphs (b) and (c) below.
  - b. When there are two or more separate uses on a site (such as a home occupation), the required parking for the site is the sum of the required parking for the individual uses. For joint use parking, see Sec. **XX - 53(7)** below.
  - c. When a use has more than twenty (20) percent of its floor area in a distinct function (i.e. office, warehouse, or retail), required parking is calculated separately for each function. An example would be a 40,000 square foot use with a 10,000 square foot office area and a 30,000 square foot warehouse. The required parking would be computed separately for the office and warehouse.
7. **Joint Use Parking.** Joint use of required parking spaces may occur where two or more uses on the same or adjacent sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the Permit Issuer as part of a Building Permit application or Occupancy Permit application:
  - a. (a) The names and addresses of the uses and of the owners or tenants that are sharing the parking;
  - b. (b) The location and number of parking spaces that are being shared;
  - c. (c) An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
  - d. (d) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.
8. **Residential Driveway Parking.** Driveway surface areas shall count as off-street parking spaces for the unit served by the driveway if there is an open surface area measuring at least one hundred-eighty (180) square feet and no portion of an automobile parked in the area will extend into public right-of-way.
9. **Enlargement of Use.** Whenever a non-residential structure or use is enlarged by twenty-five (25) percent or more of the unit used to calculate parking spaces (e.g. gross floor area, seats, employees, etc) such new parking space requirements must be met.
10. **Parking Development Standards.** The following development standards promote vehicle areas that are safe and attractive for motorists and pedestrians. These standards apply to all vehicle areas whether required or excess parking.
  - a. **Parking Space Dimensions.** The minimum size of a required parking space is nine (9) feet by eighteen (18) feet. Where non-required parking is provided on a site, at least one non-required parking space must meet the minimum size for required spaces. A portion of a standard parking space may be landscaped instead of paved. The landscaped area may be up to two (2) feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space. Landscaping must be ground cover plants.
  - b. **Disabled Parking.** The following disabled person parking standards and access standards are regulated through Uniform Building Code as adopted by the Town

1. Dimensions of disabled person parking spaces and access aisles;
  2. The minimum number of disabled person parking spaces required;
  3. Location of disabled person parking spaces and circulation routes;
  4. Curb cuts and ramps including slope, width and location;
  5. Signage and pavement markings.
- c. Parking Aisle Dimensions. Minimum width of aisles providing access to stalls for one-way traffic shall be eleven (11) feet for thirty-degree (30°) angle parking and twenty (20) feet for ninety-degree (90°) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty four (24) feet.
- d. Surfacing. All driveways and parking areas, other than those for residential and agricultural use, must be surfaced with a durable surface consisting of concrete or asphalt or of compacted gravel or crushed stone.
- e. Access. All parking areas must be designed to allow vehicles to enter and exit the roadway in a forward motion. However, this does not apply to parking areas with one or two spaces and whose only access is on a local service street.
- f. Setbacks and Perimeter Landscaping. Perimeter landscaping of parking areas must meet at least the L2 standard. The landscaping requirements also apply to parking area driveways. Parking areas must meet the setback requirements of the underlying zoning district.
- g. Parking Area Interior Landscaping. All hard-surfaced parking areas with more than ten (10) spaces must provide interior landscaping complying with one or a mix of both the Options stated below. Trees and shrubs must be protected from potential damage by vehicles through the use of bollards, curbs, wheel stops, or other physical barriers. Interior parking area landscaping must be dispersed throughout the parking area. Some trees may be grouped, but the groups must be dispersed. Perimeter landscaping may not substitute for interior landscaping. Parking areas that are thirty (30) feet or less in width, and all non-hard surfaced parking areas may locate their interior landscaping around the edges of the parking area. Interior landscaping placed along an edge is in addition to any required perimeter landscaping.
1. Option 1. Interior landscaping must be provided at the rate of ten (10) square feet per stall. At least one tree must be planted for every two hundred (200) square feet of landscaped area. Ground cover must completely cover the remainder of the landscaped area.
  2. Option 2. One tree must be provided for every six (6) parking spaces. If surrounded by cement, the tree planting area must have a minimum dimension of four (4) feet. If surrounded by asphalt, the tree planting area must have a minimum dimension of three (3) feet.

**EXHIBIT 2  
REQUIRED PARKING**

Use	Required Off-Street Parking Spaces
<b>Residential (per Dwelling Unit)</b>	
Single- and Two-Family	
1-3 Bedrooms	2 per dwelling unit
4 or more Bedrooms	3 per dwelling unit
Multiple-Family	1 per 1 BR unit, 2 per 2+ BR units, plus 1 per 4 units
Mobile/Manufactured Home Parks	2 per home site, plus 1 per 4 home sites
<b>Non-Residential</b>	
Automobile Service or Repair	2 spaces, plus 1 per 100 square feet GFA
Bed and Breakfast	1 per guest room
Bowling Alley	4 per lane
Campgrounds	3 per every 2 campsites
Car Wash	1 per each washing and vacuuming bay
Church/Synagogue	1 per 4 seats
Convenience Store	4 spaces, plus 1 per 250 square feet GLA over 1,000 sq. ft.
Financial Institutions	1 per 300 square feet GFA
Funeral Home	1 per 3 seats
Hotel and Motel	1 per guest room plus 10 per 1,000 sq. ft. GFA meeting area
Library	1 per 300 square feet GFA
Offices (Medical and Professional)	1 per 250 square feet GFA
Research	1 per 1,000 square feet GFA
Restaurant	
Dine-in	1 per 3 seats
Fast-food Establishments	1 per 30 square feet GFA
Retail Establishments (General)	1 per 250 square feet GFA
Service Establishments (General)	1 per 300 square feet GFA
Storage Areas	1 per 5,000 square feet GLA
Tavern	1 per 3 seats
Theater	1 per 3 seats
Manufacturing, Industrial (General)	1 per 2 employees on maximum working shift

GFA = Gross Floor Area

GLA = Gross Leasable Area

**11. Loading Area Requirements.** It is the intent of this Section to provide adequate on-site areas to allow for the loading and unloading of vehicles, to prevent traffic hazards and allow for the free flow of traffic on public rights-of-way. On every lot on which a business, commercial or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated in Exhibit 3 for the loading and unloading of vehicles off the public right-of-way.

**12. Location and Screening of Loading Areas.** Required on-site loading space shall be located on the same lot as the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two streets or require any vehicle to back into a public street or road. All loading areas shall be landscaped to at least the L3 level.

**13. Loading Space Dimensions.** Each on-site loading space shall have a minimum width of twelve (12) feet, a minimum length of forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. For funeral homes, the dimensions shall be reduced to a width of ten (10) feet, a length of twenty-five (25) feet, and a vertical clearance of eight (8) feet.

**14. Multiple or Mixed Uses.** Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a

loading space but the aggregate floor area of such uses is above such minimum, then on-site loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

**EXHIBIT 3  
LOADING SPACE REQUIREMENTS**

Use	Gross Floor Area (GFA)	Required Spaces
Retail, wholesale, warehouse, service, manufacturing and industrial establishments	2,000 – 10,000	1
	10,001 – 20,000	2
	20,001 – 40,000	3
	40,001 – 60,000	4
	Each add'l 40,000	1
Hotels, motels, medical and professional offices and places of public assembly	5,000 – 10,000	1
	10,001 – 50,000	2
	50,001 – 100,000	3
	Each add'l 25,000	1
Funeral homes	2,500 – 4,000	1
	4,001 – 6,000	2
	Each add'l 10,000	1

**XX - 53 Signs**

1. **Purpose of Sign Ordinance.** The purpose of this Sign Ordinance is to provide the legal framework and standards to safeguard life, property, economic development, and town aesthetics by regulating and controlling the reasonable, orderly and effective display of signs. Throughout this ordinance, regulations regarding the design, number, size, quality of materials, construction, location, illumination, installation and maintenance of all signs will encourage effective communication of information and orientation for both citizens and visitors, and promote visual harmony with respect for the environmental character of the community.

2. **Sign Definitions.** The following definitions are used in this ordinance. Any definitions not contained in this section can be found in the body of the ordinance.

- a. **Banner.** A non-illuminated, temporary sign made of paper, plastic or other flexible materials.
- b. **Billboard.** See Off-Premise Advertising Sign.
- c. **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy or marquee.
- d. **Flashing Sign.** Any directly or indirectly illuminated sign on which the artificial light is not constant in intensity and color at all times. Time/temperature and message signs are considered changeable copy signs, not flashing signs.
- e. **Ground Freestanding Sign.** A sign that is placed directly on the ground and is not attached to any building.
- f. **Illuminated Sign.** A sign lighted by or exposed to artificial lighting, either by lights in the sign or lights directed toward the sign.
- g. **Multi-faced Sign.** A sign which has two (2) or more surface areas used for identification or advertising.

- h. Off-premise Advertising Sign. A sign not located on the business premises that advertises goods, products, facilities, or provides directions.
- i. Parcel. Such lots or lands identified by a tax identification number.
- j. Permanent Sign. A sign that is permanently affixed or attached to the ground or to a structure.
- k. Prohibited Sign. A sign failing to conform to the provisions of this sign ordinance.
- l. Projecting Sign. A sign, normally double-faced, that is attached to and projects from a face or wall of a structure.
- m. Pylon Sign. A sign that is supported by one (1) or more freestanding uprights or poles and is not attached to any building.
- n. Sign. Any structure or device displaying advertising in the form of lettering, pictures, symbols or other media.
- o. Temporary Sign. An advertising device that is not permanently attached to a building or the ground and which is intended to be displayed for a period of less than two weeks.
- p. Wall Sign. Any sign attached to, erected on, or painted on the vertical wall of a building.
- q. Window Sign. Any sign affixed to and visible through an exterior window or door.

3. **General Requirements.** No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without an approved permit, except as provided in Section 11 of this ordinance. The sign shall meet all the structural and safety requirements as set forth in this ordinance.

4. **General Physical Requirements for All Signs.**

- a. Ground/Freestanding Signs. Ground/freestanding signs shall not exceed a maximum of eight feet (8') in height. Ground/freestanding signs shall not have more than two (2) faces and not permitted to move or rotate in whole or part. One ground/freestanding sign (where permitted) is allowed per parcel. The use of ground/freestanding signs is encouraged and preferred over pylon signs.
- b. Pylon Signs. Pylon signs shall not exceed twenty feet (20') in height, and be set back one foot (1') for every two feet (2') of sign height from property line. Pylon signs shall not have more than two (2) faces and shall not be permitted to move or rotate in whole or in part. One pylon sign (where permitted) is allowed per building.
- c. Wall Signs. Wall signs, including dimensional letter signs, shall not exceed forty-eight (48) square feet. A wall sign shall not extend above the lowest point of the roof nor beyond the ends of the wall to which it is attached, and not extend more than eight inches (8") outside a building's wall surface.
- d. Projecting Signs. One (1) projecting sign is allowed per parcel, not to exceed twenty-four (24) square feet, and must be twenty-five feet (25') from another projecting sign. Minimum clearance to grade shall be ten feet (10') measured from the lowest part of the sign.
- e. Awning or Canopy Signs. Awning or canopy signs or any lettering or imagery applied on an awning or canopy, is considered a sign. The size of the lettering shall not exceed one-fourth (1/4) of the total surface area of the awning. Additional signs cannot extend beyond, or be attached to the underside of an awning or canopy.
- f. Window Signs. Window signs shall not exceed twenty-five percent (25%) of the total area of the window in which the sign is placed.
- g. Illumination.

1. Flood lighting and internally illuminated signs shall illuminate only the immediate area of the sign, concentrating light upon the sign without radiating light on adjacent public or private property.
  2. White light and neon emitting different colors of light are permitted.
  3. Where signs face a residential zoning district, the illumination shall cease after 11:00 p.m., or after the business closing time, whichever comes first.
  4. Flashing signs are prohibited.
  5. Exposed reflective type bulbs, incandescent lamps or other illumination devices which exceed forty (40) watts shall not be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to adjacent property.
- h. Structural and Safety Specifications.
1. All new signs shall comply with the appropriate provisions of the Town Building Code and the National Electric Safety Code, as well as additional standards set forth in this section.
  2. No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, or door, or opening required for ventilation.
  3. Clearances from high voltage power lines must meet horizontal and vertical clearances outlined in the National Electric Safety Code.
  4. All ground freestanding or pylon signs shall be self-supporting and permanently attached to sufficient foundations. Engineering certification of safety will accompany all pylon signs over ten feet (10') in height.
  5. All electrical work must be performed by a licensed electrician.
  6. Only safety or tempered glass shall be used.
  7. Supports or braces must be of adequate material to meet wind loads that are structurally safe.

**5. Business or Commercial and Manufacturing or Industrial, Park and Recreational and Institutional Sign Requirements (BC-1, P-1, and IN-1).** Signs that are allowable under this ordinance and that are visible from the roadway must satisfy the legitimate needs of commerce or the public good without visual clutter and without obstructing the view of buildings and traffic signs.

- a. Pylon signs shall not exceed forty-eight (48) square feet per sign face.
- b. Ground/freestanding signs shall not exceed forty-eight (48) square feet per sign face.
- c. Projecting signs shall not exceed twenty-four (24) square feet surface area.
- d. Secondary entrance shall not exceed twelve (12) square feet in surface area. These may be projection signs.

**6. Agricultural (AG-1, AG-2 and AG-3) Sign Requirements.** The purpose of signage in agricultural areas is for the identification of business establishments, services and products available on the premises where the sign is located.

- a. Pylon signs shall not exceed forty-eight (48) square feet per sign face.
- b. Ground/freestanding signs shall not exceed forty-eight (48) square feet per sign face.
- c. Projecting signs shall not exceed forty-eight (48) square feet surface area.

**7. Residential District R1, R2 Physical Sign Requirements.** Signs erected in the Town's residential districts shall be maintained so the values and enjoyment of all properties in the neighborhood shall not be substantially impaired or diminished by the establishment, maintenance, or operation of the sign. Signs will be compatible with the use of adjacent land.

- a. Pylon signs, changeable copy signs, wall signs and projecting signs are prohibited.
- b. One (1) ground/freestanding sign identifying a residential business, not to exceed six (6) square feet in area is permitted. Signs must be set back at least five (5') feet from the property line. Signs shall not exceed four feet (4') in height.
- c. Off-premise advertising signs are prohibited.
- d. Signs that exclusively identify a subdivision or residential area and are located at principal entrances shall not exceed twenty-four (24) square feet in area and shall be maintained by a corporation or association of homeowners. If the corporation or association disbands, signs must be removed.

8. **Off-Premise Advertising Signs.** Permitted Zoning Districts- Off-premise advertising signs are permitted only in the Business or Commercial and Manufacturing or Industrial (BC-1) zoning district.

9. **Prohibited Signs.** The following signs, including unclassified signs, shall be prohibited within all zoning districts in the Town of Mitchell:

- a. Abandoned signs that are no longer in use or a sign providing obsolete or outdated copy.
- b. Animated signs, either alternating, rotating or swinging, in whole or part, or signs which emit audible sound, odor or visible matter. Exceptions include the rotation of barber poles, and currently licensed vehicles or trailers that display, in a permanent manner, the name of the product they deliver and/or the name and address of the owner.
- c. Obstructing signs of a size, location, content, coloring, or manner of illumination that may be confused with an official traffic control device, or which hides any traffic sign or signal, or obstructs the view at an intersection.
- d. Displaced signs, those erected on a tree, utility pole, painted on or attached to any fence or wall that are not structurally a part of a building, except to identify a residence, or as traffic control.
- e. Obscene signs that contain statements, words, or pictures of an pornographic or immoral character.
- f. Inflatable signs, such a balloons, used as off-premise advertising devices. On-premise devices of this nature may be used only for the opening of a new business or special promotion in the Business or Commercial and Manufacturing or Industrial (BC-1) District.
- g. Mobile signs on a vehicle parked primarily for the purpose of displaying an advertisement.
- h. Roof signs.

10. **Signs Not Requiring a Permit.** The following signs are permitted in all zoning district of the Town of Mitchell without a sign permit provided they comply with the restrictions and specifications contained in this section and in no way conflict with restrictions stated in Section XX - 53(9), Prohibited Signs:

- a. Governmental or other signs required by federal state or local law including off-premise directional signs.
- b. House number and name plates indicating occupants and/or address.
- c. Interior signs located within any building or structure which are not visible from the public right-of-way.
- d. Landmark signs and plaques showing names of buildings and commemorative dates, which are cut into masonry surfaces, or made of bronze or other permanent type construction and made to be an integral part of the building.
- e. No trespassing and no dumping signs no more than two (2) square feet.

- f. Miscellaneous signs, posters, banners, flags, or pennants promoting civic, charitable, educational or religious events may be temporarily displayed and removed after the event.
  - g. Election campaign signs can be displayed no earlier than thirty (30) days prior to primary/general elections. Permission must be granted by the owners and tenants of the property upon which the sign is erected. No sign shall be located on public property or within two hundred feet (200') of a designated polling place. The sign shall be removed within seven (7) days following the primary/general election by the candidate or person responsible for its placement. Political signs shall not exceed twelve (12) square feet in area and no more than one (1) sign per land parcel is permitted for each candidate or issue.
  - h. Real estate signs promoting the sale of a property are limited to one(1) on any lot or parcel. In residential and commercial districts, such signs shall not exceed eight (8) square feet, and in industrial districts sixteen (16) square feet. Such signs shall be removed within thirty (30) days after sale, rental, or lease. Illumination is prohibited.
  - i. Rummage sale signs used for advertising merchandise at a private residence shall be posted only on the days of the sale and cannot be attached to public property.
  - j. Construction signs identifying contractors, which are less than twelve (12) square feet in area, are allowed onsite for the duration of construction.
  - k. Over-the-street banners promoting community events may be displayed for twenty (20) days and removed promptly after the event.
  - l. Portable signs not permanently mounted to the ground or a structure, such as special announcement signs or a menu board, shall be structurally sound, displayed in a safe manner, and brought indoors after the close of the business day.
  - m. Non-profit organizations, civic group, religious group signs or emblems are governed by the regulations and conditions specified in Section XX - 53(4), General Physical Requirements. Placement of such signs on Town owned land must be by the approval of the Town Board.
  - n. Temporary signs.
- 11. Existing Nonconforming Signs.**
- a. Signs existing at the time of adoption of this ordinance, although the use, size or location does not conform to the provisions of this ordinance, shall be deemed a nonconforming use or structure and the following provisions shall apply.
  - b. A sign will lose its existing nonconforming status and must, within thirty (30) days of occurrence, be brought into compliance with this ordinance and a new permit secured if one (1) or more the following occurs:
    1. The sign is structurally altered in any way, including changes in size, area, height, location, or illumination, except for minimal maintenance or repair such as paint touch-ups.
    2. The sign is damaged to such an extent that the cost to repair or reconstruct the sign exceeds fifty percent (50%) of the value of the sign.
    3. The design, logo, or wording of the sign is altered.
    4. If the Building Inspector determines that the sign is dangerous, defective, or abandoned.
    5. If a building or place of business is occupied by a new building owner, a new business, or new tenant.
  - c. The nonconforming sign shall be removed at the owner's expense. Nothing in this ordinance shall relieve the owner or user of a legal nonconforming sign or the

owner of the property in which the sign is located from the provisions of this ordinance regarding safety, maintenance and repair of signs.

**12. Authority - Administration and Enforcement.**

- a. The administrator of this ordinance is the Building Inspector who will enforce and carry out all provisions of this ordinance. The Building Inspector or his authorized agent shall record and file all applications for permits with any accompanying plans and documents, make inspections of the signs in the Town of Mitchell, and make such reports as the Town may require.
- b. Certain signs, because of unusual circumstances, may require a special variance for conformance to this ordinance. These variances must be approved by the Town Board.
- c. If the Building Inspector refuses to issue a permit because the proposed signage does not meet the requirements of this ordinance, the applicant will be issued a written decision outlining the reasons for any denial. Such denial may be appealed to the Town Board within forty-five (45) days of the date of decision. Information regarding the appeal process shall be included in the Building Inspector's written decision.

**13. Permits and Fees.**

- a. Application for a permit to erect or replace a sign or to change copy thereon, shall be made by the owner of the parcel or his authorized agent to the Building Inspector by submitting the required forms, fees, exhibits, and information.
- b. Fees for sign permits for all signs shall be established by resolution of the Town Board.
- c. Application for a sign permit shall be made on forms provided by the Building Inspector, and shall contain the following information:
  - 1. Name, address, and telephone number of applicant. (When applicant is not the property owner, sign owner shall also give name and address of property owner.)
  - 2. A site plan showing the location of the building, structure, or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings, structures, and property lines. The site plan shall include photographs of the buildings and/or site of the proposed sign, including adjoining properties.
  - 3. A drawing of the plan showing design of the sign, lettering, colors, materials to be used, illumination, and means of attachment to the building or the ground.
  - 4. Location and size of existing signs.
  - 5. Written approval of an adjoining property owner if the servicing of a sign will require access from such adjoining property or adjoining building.
  - 6. Name and address of the person, firm, corporation, or association erecting the structure.
  - 7. Such other information as the Building Inspector may require to show full compliance with this and all other applicable laws.
  - 8. Signature of applicant along with any applicable fees.

- 14. **Liability.** The acceptance of fees as provided herein shall not be deemed as assumption of liability by the Town. The owner of any parcel on which a sign is erected shall be liable for any damages and injuries that may be caused to persons or property.

**XX - 54 through XX - 59 Reserved for Future Use.**

## ARTICLE VI: ADMINISTRATIVE DUTIES

### XX - 60 Town Board

1. **Powers and Duties.** The Town Board, in general, performs the following functions in relation to matters addressed by this ordinance:
  - a. Adopt and periodically review a schedule of fees, payable by applicants, for the review and processing of Building Permits, Occupancy Permits, Temporary Use Permits, Conditional Use Permits, applications for variances, applications for amendments to this ordinance (text or map), appeals of decisions of the Permit Issuer/Permit Issuer, and appeals of decisions of the Planning Commission.
  - b. 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.
  - c. Approves, approves with conditions, or disapproves, after due consideration of the recommendations made by the Planning Commission, any application for a subdivision plat.
  - d. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this ordinance.

### XX - 61 Board of Appeals

1. **Creation and Membership.** The Zoning Board of Appeals under this ordinance is the Board of Appeals that has been duly created by the Town of Mitchell. The appointment of members and alternates, terms of appointment, filling of vacancies, use of alternates and other provisions related to the creation and membership of the Board of Appeals shall operate in accordance with Section 62.23(7)(e), Wisconsin Statutes as amended from time to time.
2. **Organization.**
  - a. The Board of Appeals 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 Board of Appeals shall be held at the call of the Chair of the Board of Appeals, or at such other times as the Town Board may determine necessary.
  - c. All meetings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings showing its action and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
  - d. The presence of four (4) members of the Board of Appeals shall constitute a quorum. The concurring vote of four (4) members shall be required to reverse any order, requirement, decision or determination of the Permit Issuer, or to decide in favor of the applicant on 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 Board of Appeals may call on the Permit Issuer, 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.

3. **Powers and Duties.** The Board of Appeals shall have the following powers and duties:
  - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Permit Issuer in the administration or enforcement of this ordinance.
  - b. To hear and decide applications, in specific cases, for variances from this ordinance.
  - c. To review administrative decisions where it is asserted that the administrative official erred in applying a land use control ordinance to a particular property.
  - d. To hear and decide all other matters referred to it upon which it is required to act under this ordinance.

## **XX - 62 Planning Commission**

1. **Creation and Membership.** The Planning Commission under this ordinance is the Planning Commission that has been duly created by the Town of Mitchell. It is the responsibility of the Planning Commission to implement and enforce this ordinance as set forth hereafter. The Planning Commission shall consist of five (5) members, appointed by the Town Board Chair 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 one shall serve for one year, two for two years and two for three years. Annually, the Town Board Chair shall appoint a Commission Chair. The members of the Planning Commission shall thereafter elect other officers as may, in their judgment, be necessary.
2. **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 Chair, 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 four (4) members of the Planning Commission shall constitute a quorum. The concurring vote of three (3) 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. The Planning Commission, with the approval
3. **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. To review and decide on applications for site plan review.
  - d. To hear and decide applications for Conditional Use Permits.

- 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.

**XX - 63 Permit Issuer**

1. **Powers and Duties.** It shall be the duty of the Building Inspector and/or other official designated as Permit Issuer by the Town, to administer and enforce the provisions of this ordinance. The Permit Issuer/ shall be appointed by the Town Board Chair and confirmed by the Town Board. The Permit Issuer shall:
  - a. Examine all applications for Building Permits, Occupancy Permits, and Temporary Use Permits, and approve such permits when there is compliance with the provisions of this ordinance.
  - b. Revoke by order any permits approved under a misrepresentation or misstatement of fact, or approved contrary to the law or provisions of this ordinance.
  - c. Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.
  - d. Issue stop-work orders and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance.
  - e. When directed by the Town Board, institute in the name of the Town any appropriate legal action or proceedings to prevent or correct any violation of this ordinance.
  - f. Maintain maps and/or records of all nonconformities and approved Conditional Use Permits and variances.
  - g. At the request of the Town Board, Town Board Chair, Planning Commission or Board of Appeals, present to such persons or bodies facts, records or reports that may assist them in making decisions, or assist them in any way as requested.

**XX - 64 through XX - 69 Reserved for Future Use**

## **ARTICLE VII: ADMINISTRATIVE PROCEDURES AND ENFORCEMENT**

### **XX - 70 Building Permits**

1. **Purpose.** The Building Permit is a document issued by the Permit Issuer to verify that a proposed structure(s) or alteration of an existing structure or structures, as represented, will conform with all applicable provisions of law.
2. **Applicability.** No building shall be erected, altered, structurally altered, reconstructed or moved until a Building Permit has been issued by the Permit Issuer. A Building Permit shall be required for the construction or alteration of any building or structure, including swimming pools, the total labor and materials costs of which total one thousand dollars (\$1,000.00) or more, not including routine maintenance or repairs. However, if the construction or alteration affects a change in use, an Occupancy Permit shall be required as set forth in Sec. **XX - 71**.  
Provided that prior to the commencement of any activity that does meet the criteria set forth above, the owner shall notify the Permit Issuer in writing of such activities, giving the address and exact nature of the work to be done, the commencement date and an estimate of its cost. The Permit Issuer may require further information if it is deemed necessary to the enforcement of the provisions of this ordinance.
3. **Application.** Application for a Building Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall include the following information as may required by the Permit Issuer in his discretion:
  - a. Name and address of the owner of the land and, if different, the owner of the structure.
  - b. A statement addressing the current use and proposed use of the land and structures.
  - c. Lot dimensions (including total acreage or square footage) and the location, dimensions and arrangements of all proposed open spaces, yards, buffering, parking and signs.
  - d. Site layout, drawn to scale, showing the location and dimensions of all existing and proposed uses and buildings with their height and floor dimensions and setbacks from the public right-of-way.
  - e. For structures intended for human habitation, satisfactory proof of a safe and adequate water supply and satisfactory proof that the proposed sewerage system complies with all applicable laws and ordinances.
  - f. Any other information necessary for the Permit Issuer to enforce the provisions of this ordinance.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Issuance of Building Permit.** If it is determined that the proposed structure, as represented, will comply with all applicable state laws and the provisions of this ordinance, the Permit Issuer shall officially approve and sign one set of plans and return it to the owner, and issue a Building Permit. The Building Permit shall be kept on display at the site of the proposed building until work is completed.
6. **Time Limits.** Building Permits issued pursuant to this Section are valid for a period of twelve (12) months from the date of issuance. If substantial work, as measured in terms of expenditure of labor and materials or economic value of improvements, has not commenced prior to the expiration of the permit the applicant shall be required to reapply for a new Building Permit. The Permit Issuer may grant an applicant a one-time, six-month extension of a Building Permit if applicant presents evidence of reasonable

reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

7. **Improper Issuance.** A Building Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.
8. **Prior Permits.** No Building Permit lawfully issued by the Permit Issuer prior to the effective date of adoption or amendment of this ordinance shall be invalidated by the adoption or amendment of this ordinance. Such permits shall remain valid for the period and under the terms of its issuance.

## **XX - 71 Occupancy Permits**

1. **Purpose.** The Occupancy Permit is a document issued by the Permit Issuer to verify that the activities undertaken under a Building Permit, or proposed new or changed uses of land conform to the terms of the Building Permit and/or applicable provisions of law.
2. **Applicability.** An Occupancy Permit shall be required for any of the following:
  - a. Occupancy and use of a building erected, altered, structurally altered, reconstructed or moved.
  - b. Any change in use or in the number of dwelling units allowed in an existing building.
  - c. Occupancy and use of vacant land.
  - d. Change in the use of land to a use of a different zoning classification.
  - e. Any change in the use of a nonconforming use, provided that such use is in compliance with the provisions of Sec. **XX - 50**, Nonconforming Uses, Structures and Lots.
3. **Application.** Application for an Occupancy Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall conform to the following:
4. **Uses Requiring an Occupancy Permit.** Written application for an Occupancy Permit for any activity also requiring a Building Permit shall be made at the same time as the application for the Building Permit. The Occupancy Permit shall be issued within ten (10) days after final inspections have been made and the structure(s) have been found in full conformity with the terms of the Building Permit and all applicable provisions of law.
  - a. Vacant Land, Change in Land Use or Change in Nonconforming Use. Written application for an Occupancy Permit for the use of vacant land, for a change in the use of an existing land or building, or for a change in a nonconforming use shall be made to the Permit Issuer and shall contain the information required by Sec. **XX - 70(3)**, as applicable. If the proposed use is in conformity with the provisions of this ordinance, the Occupancy Permit shall be issued by the Permit Issuer within ten (10) days from the date of application.
  - b. Use Certification. Upon written application from the property owner, the Permit Issuer shall issue an Occupancy Permit for any structure or premises existing at the time of adoption of this ordinance certifying, after inspection, the use made of the structure and premises at the time of adoption and whether or not such use conforms to the provisions of this ordinance.
5. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
6. **Temporary Occupancy.** The Permit Issuer may issue a temporary Occupancy Permit for a period not to exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Extensions may be obtained beyond the six (6) months' period only by application and issuance of a new temporary Occupancy Permit.

7. **Contents/Recordkeeping.** Every Occupancy Permit shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Occupancy Permits shall be kept on file in the office of the Permit Issuer and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.
8. **Improper Issuance.** An Occupancy Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

## **XX - 72 Temporary Use Permits**

1. **Purpose.** The Temporary Use Permit is a document issued by the Permit Issuer to regulate the size, location and placement of structures and/or uses not intended to become permanent. Such uses may include, but are not limited to the sale of merchandise, tents or structures for outdoor events open to the public, or the location and setup of circuses and carnivals.
2. **Exceptions.** Garage sales, rummage sales, “sidewalk sales” in conjunction with the year-round business use of the premises, and roadside stands for the sale of produce, Christmas trees or other products grown or produced on the premises and sold on a seasonal basis (not to exceed ninety (90) days in a calendar year) are exempt from the requirements of Sec. **XX - 72**.
3. **Applicability.** In order for a Temporary Use Permit to be issued, such use must be of a type permitted as a permanent use in the underlying zoning district where the use is to be located and must comply with all provisions of that district.
4. **Application.** Application for a Temporary Use Permit shall be made in writing to the Permit Issuer upon a form furnished by the Permit Issuer and shall contain the information required by Sec. **XX - 70(3)**, as applicable. If the proposed use is in conformity with the provisions of this ordinance, the Temporary Use Permit shall be issued by the Permit Issuer within ten (10) days from the date of application.
5. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board’s schedule of fees, shall accompany the application.
6. **Time Limits.** Temporary Use Permits issued pursuant to this Section are valid for a period of ninety (90) days from the date of issuance and the use shall be discontinued immediately upon the expiration of the Temporary Use Permit. An applicant may not be granted more than one Temporary Use Permit for the same use in a calendar year.
7. **Improper Issuance.** A Temporary Use Permit which was issued in error or under a misrepresentation or misstatement of fact by the applicant shall not create any rights in such permit and the Town shall be entitled to revoke such permit.

## **XX - 73 Site Plan Permits**

1. **Purpose.** The Town Board recognizes that zoning, by itself, does not guarantee that new development will integrate into the community. Often, a legally-allowable use may, nonetheless, be incompatible with its proposed environment due to various design factors. Site plan review provides the Town with an opportunity to regulate development to ensure that structures and sites fit harmoniously into the surrounding environment.
2. **Applicability.** Except for buildings and accessory structures consistent with agricultural uses, a site plan permit shall be required for any of the following activities:
  - a. New construction of a building or other structure, except as provided below.
  - b. Expansion of an existing use that involves a floor space increase of twenty (20) percent or more within any 10-year period.

- c. Change of business or other activity that requires an increase of ten (10) percent or more in the number of off-street parking spaces.
  - d. Alteration or expansion of an existing parking lot that affects greater than ten (10) percent of the total number of parking spaces
  - e. Remodel or exterior alteration of any building or other structure, the cost of which exceeds five (5) percent of the structure's total fair market value as determined by the Permit Issuer.
3. **Initiation of Process; Payment of Fee.** The site plan review process shall be initiated prior to the commencement of any site disturbing activities such as grading, filling, vegetation removal, etc. associated with the proposed activity. Payment of the appropriate fee, as set forth by the Town Board's schedule of fees, shall be made at the time of the preapplication conference.
  4. **Preapplication Conference.** To assist the Town and the applicant in the site plan review process, an applicant for site plan review shall arrange for a preapplication conference with the Town Board Chair, Permit Issuer, and/or selected Planning Commissioners by submitting forms and sketch plans as prescribed by the Permit Issuer prior to submission of a formal application. A preapplication conference need not include extensive field inspection or correspondence. The purposes of the preapplication conference are to bring about an informal discussion regarding a proposed project, and to assist the applicant by identifying the following:
    - . (Requirements for submittal, including any other types of permits necessary to complete the proposal;
      - a. Applicable community plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements;
      - b. Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.
      - c. The discussion at the preapplication conference shall not bind or prohibit the community's future enforcement or application of its codes and ordinances.
  5. **Formal Application.** Application for site plan review shall include the documents described under "Submission Requirements" below as may be required by the Planning Commission in its discretion. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file for public inquiry. After the application is determined to be complete for purposes of further processing, the Commission may transmit copies of the site plan documents to the Permit Issuer, or other consultant(s), official(s) as deemed necessary, in order to solicit comments. The reviewing officials shall then submit written comments to the Commission within 21 days concerning the potential impacts of the proposed development on the objectives listed under "Standards of Review" below, and any recommended conditions or remedial measures to accommodate or mitigate these expected impacts. Failure of any of the aforementioned parties to respond within the allotted time shall be interpreted as approval of the site plan as proposed.
  6. **Submission Requirements.** A site plan shall be prepared on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written narrative. The Permit Issuer or other decision-making body may require any of the following items as part of the formal site plan submission:
    - a. Name of the project, boundaries, and location maps showing the site's location in the community, date, north arrow and scale of the plan.
    - b. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
    - c. Names and addresses of all owners of record of abutting parcels and those within three hundred feet (300') of the property line.

- d. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and the location and use of structures within three hundred feet (300') of the site.
  - e. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
  - f. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
  - g. The location, height, intensity and coverage area of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  - h. The location, height, size, materials, and design of all proposed signage.
  - i. The location of all present and proposed utility systems including sewage system; water supply system; telephone, cable and electrical systems; storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, enwalls, hydrants, manholes and drainage swales.
  - j. Soil logs, percolation tests and storm runoff calculations for large or environmentally-sensitive developments.
  - k. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
  - l. Existing and proposed topography at two-foot (2') contour intervals. If any portion of the parcel is within the 100-year floodplain, the area shall be shown and base flood elevations given. Indicate areas within the proposed site and within fifty feet (50') of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
  - m. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
  - n. Zoning district boundaries within five hundred feet (500') of the site's perimeter shall be drawn and identified on the plan.
  - o. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred feet (100') of the site.
  - p. For new construction or alterations to any existing building, a table containing the following information:
    - 1. area of building to be used for a particular use such as retail operation, office, storage, etc;
    - 2. maximum number of employees;
    - 3. maximum seating capacity, where applicable;
    - 4. number of parking spaces existing and required for the intended use.
    - 5. Elevation plans at a scale of  $1/2'' = 1'$  for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of signs to be used.
7. **Procedure.** For proposals not requiring a Conditional Use Permit, the Commission shall issue its decision on the application within thirty (30) days after the determination that the application is complete. For proposals also requiring a Conditional Use Permit, the Commission shall issue its decision on the site plan application no later than seven (7)

- days after the hearing held by the Board of Appeals on the proposed Conditional Use Permit if such Conditional Use Permit is granted.
8. **Decision of Planning Commission.** The Commission's decision shall consist of either:
    - a. Approval of the site plan.
    - b. Approval of the site plan subject to any conditions, modifications or restrictions as imposed by the Commission
    - c. Disapproval of the site plan.
  9. **Criteria for Review.** During the site plan review process, the Commission shall review the site plan and supporting documents to assess the reasonable fulfillment of the following listed objectives:
    - . *Legal.* Conformance with the provisions of the ordinances and rules of the State of Wisconsin, Sheboygan County and the Town;
      - a. **Traffic.** Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
      - b. **Parking.** Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
      - c. **Services.** Reasonable demands placed on community services and infrastructure.
      - d. **Pollution Control.** Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
      - e. **Nuisances.** Protection of adjacent and neighboring properties and community amenities from any undue disturbance caused by excessive or unreasonable noise, fumes, smoke, dust, odors, glare, stormwater runoff, etc.
      - f. **Existing Vegetation.** Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
      - g. **Amenities.** The applicant's efforts to integrate the proposed development into the existing landscape through design features such as consistent and complimentary architectural design, vegetative buffers and/or the retention of open space.
      - h. **Character.** The building setbacks, area and location of parking, architectural compatibility, signage and landscaping of the development, and how these features harmonize with the surrounding built environment and natural landscape.
      - i. The building placement to preserve farmland.

## **XX - 74 Appeals of Administrative Decisions**

1. **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is an error of law in any decision made by the Building Inspector or Permit Issuer in the enforcement of this ordinance. For the purposes of this subsection, "decision" means any written order, ruling, requirement or decision made by the Permit Issuer in acting to carry out the provisions of this ordinance.
2. **Application.** Any person, firm, corporation or governmental unit materially affected by a decision of the Building Inspector or Permit Issuer may appeal such decision. The appeal must be filed with the Town Clerk no more than thirty (30) days after the Permit Issuer issues the decision being appealed. An appeal must be in writing and contain the following:
  - a. (A brief statement as to how the appellant is materially affected by or interested in the matter appealed;

- b. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision being appealed;
  - c. The relief requested, such as reversal or modification;
  - d. Signature, address, and phone number of the appellant, and name and address of appellant's designated representative, if any. In the event an organization is the appellant, one person shall be designated as the contact person for all procedural matters related to the appeal; and
  - e. Any documentation supporting appellant's position on appeal.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the written appeal.
  4. **Procedure.** The Board of Appeals shall hold a public hearing on the appeal no more than forty-five (45) days from the filing date of the appeal, and shall issue its decision no later than sixty (60) days from the filing date of the appeal. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
  5. **Decision Criteria.** The order, determination or decision of the Permit Issuer may be reversed or modified if appellant affirmatively demonstrates any of the following:
    - a. The decision is an erroneous interpretation of this ordinance;
    - b. The decision is not supported by substantial evidence; or
    - c. The decision is outside the authority of the Building Inspector or Permit Issuer.

## XX - 75 Variances

1. **Purpose.** Variances are the mechanism by which the Town may grant relief from the terms of this ordinance where, owing to special physical conditions, a literal enforcement of the height, bulk, setback or other dimensional provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
2. **Use Variance Prohibited.** A variance is authorized only where practical difficulty or unnecessary hardship are a result of the physical characteristics of the subject property. Variances are not authorized for changes in density requirements or for allowing or expanding uses otherwise prohibited. A variance shall not be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
3. **Application.** All applications for a variance shall be made in writing to the Permit Issuer on a form furnished by the Permit Issuer. Where a site plan is required by the terms of this ordinance it shall be submitted coincident with the application. In cases where a site plan is not required, the application shall contain information as required by Sec. **XX - 70(3)**, as applicable. The application should also provide information necessary to demonstrate how the request meets the variance decision criteria set forth below. The Permit Issuer shall refer all applications and accompanying materials to the Board of Appeals.
4. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
5. **Procedure.** The Board of Appeals shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the application, and shall issue a written decision no later than sixty (60) days from the filing date of the application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be

- published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
6. **Decision Criteria.** The variance may be approved, or approved with conditions, if:
    - a. The variance will not permit the establishment of a use which is not permitted or permissible in the zoning district in which the subject property is located;
    - b. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located;
    - c. The variance is necessary for the preservation of the same rights permitted to other properties in the same vicinity and zone as the subject property, but which is denied to the subject property because of special physical circumstances such as size, shape, topography, location or surroundings;
    - d. The need for a variance has not arisen from actions taken or proposed by the applicant;
    - e. The variance is the minimum necessary to afford relief to the applicant; and
    - f. The variance is consistent with this and all other Town ordinances.
  7. **Conditions.** A variance may be approved with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
  8. **Time Limits.** If the applicant has not filed for a Building Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the variance by the Board of Appeals, the applicant shall be required to reapply for a variance. The Permit Issuer may grant an applicant a one-time, one year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

## **XX - 76 Conditional Use Permits**

1. **Purpose.** The Conditional Use Permit is a mechanism by which the Town may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property.
2. **Application.** All applications for a Conditional Use Permit shall be made in writing to the Permit Issuer on a form furnished by the Permit Issuer. Where a site plan is required by the terms of this ordinance it shall be submitted coincident with the application. In cases where a site plan is not required, the application shall contain information as required by Sec. **XX - 70(3)**, as applicable. The application should also provide information necessary to demonstrate how the request meets the Conditional Use Permit decision criteria set forth below. The Permit Issuer shall refer all applications and accompanying materials to the Plan Commission.
3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
4. **Procedure.** The Plan Commission shall hold a public hearing on the application no more than forty-five (45) days from the filing date of the application, and shall issue a written decision no later than sixty (60) days from the filing date of the application. Notice of the public hearing shall be mailed to the parties of interest, as determined by the Board of Appeals. A Class 1 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Board of Appeals.
5. **Decision Criteria.** A Conditional Use Permit may be granted, or granted with conditions, if:

- a. The use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property;
  - b. Adequate provisions are made for roads, water, fire protection, sewage disposal and other necessary facilities;
  - c. The use will not be materially detrimental to uses or property adjacent to the subject property;
  - d. All reasonable measures have been taken to eliminate any negative impacts that the proposed use may have on the surrounding area;
  - e. In the case of a Conditional Use Permit for the construction or use of buildings, structures or other improvements for public utility uses reasonably necessary for the public convenience and welfare, that the use or improvement shall meet a demonstrable public need and provide a public benefit; and
  - f. The use complies with this and all other Town ordinances.
6. **Conditions.** A Conditional Use Permit may be granted with conditions. If no reasonable conditions can be imposed that will ensure the application meets the decision criteria set forth above, then the application shall be denied.
7. **Time Limits.** If the applicant has not filed for a Building Permit or other necessary development permit prior to the expiration of one year from the date of the granting of the Conditional Use Permit by the Plan Commission, the applicant shall be required to reapply for a Conditional Use Permit. The Permit Issuer may grant an applicant a one-time, one-year extension if applicant presents evidence of reasonable reasons for delay in construction or that denial of the extension will impose unreasonable hardships upon the applicant.

## **XX - 77 Amendments**

1. **Purpose.** The amendment process provides a method for making changes to the text of this ordinance or the adopted zoning map to allow for changes in existing conditions or the direction of development, the preservation of property values, the protection of natural resources, or to correct ordinance language, operation or procedures when deemed necessary, all to promote the health, safety, morals or the general welfare of the entire Town.
2. **Application.**
  - a. **Text Amendment.** Text Amendments may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by a property owner or resident of the Town. A property owner or resident shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request promotes the health, safety, morals or the general welfare of the Town. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.
  - b. **Map Amendment.** Map amendments (rezones) may be initiated by resolution of the Town Board, by the Planning Commission on its own initiative, or by the owner(s) of the particular property to be rezoned. Property owner(s) shall file an application in writing with the Town Clerk on forms furnished by the Town Clerk. The application should also provide information necessary to demonstrate how the request relates to the decision considerations set forth in Sec. XX - 78(5) below. The Town Clerk shall refer all applications and accompanying materials to the Planning Commission.

3. **Payment of Fee.** Payment of the appropriate fee, as set forth in the Town Board's schedule of fees, shall accompany the application.
4. **Procedure.** The Planning Commission shall hold a public hearing on the proposed amendment no more than forty-five (45) days from the filing date of the application or resolution, and shall forward a written recommendation to the Town Board no later than sixty (60) days from the filing date of the application. Notice of the Planning Commission's public hearing shall be mailed to the parties of interest, as determined by the Planning Commission. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Planning Commission. In making its recommendation to the Town Board, the Planning Commission shall consider any relevant evidence gathered at the public hearing, any applicable decision considerations and any other applicable ordinance provisions.

The Town Board shall hold a public hearing on the application no more than thirty (30) days from the receipt of the Planning Commission's recommendation or, if the Planning Commission fails to forward such recommendation, no later than ninety (90) days from the filing date of the application. Notice of the Town Board's public hearing shall be mailed to the parties of interest. A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall also be published in the official Town newspaper. The notice shall specify the date, time and place of the public hearing and the matters to come before the Town Board. The Town Board shall issue its decision on the application no later than thirty (30) days from the date of the Town Board's public hearing. In making its decision, the Town Board shall consider any relevant evidence gathered at the public hearings, the recommendation of the Planning Commission, any applicable decision considerations and any other applicable ordinance provisions. If the Town Board action is to approve the amendment, or approve the amendment with modifications, it shall further act to formally adopt the amendment by ordinance. In the case where the Planning Commission unanimously recommended denial of the change, or in the case where a valid protest as addressed in Section 62.23(7)(d)(2), Wisconsin Statutes is filed prior to or at the public hearing, a three-fourths (3/4) vote of the Town Board members is required for approval of the amendment.
5. **Decision Considerations**
  - a. *Text Amendments.* In deciding on a proposed text amendment, the Planning Commission and Town Board should consider and address whether the amendment will promote the health, safety, morals and general welfare of the Town.
  - b. *Map Amendments.* In deciding on a proposed map amendment, the following factors should be considered:
    1. Whether the proposed amendment is warranted because of changed circumstances or a need for additional land in the proposed zone and the proposed designation is appropriate for reasonable development of the subject property;
    2. Whether the subject property is suitable for development in general conformance with the zoning standards of the proposed zoning designation;
    3. Whether the proposed amendment will be materially detrimental to uses or property adjacent to the subject property;
    4. Whether provisions are or can be made for roads, water, fire protection, sewage disposal and other necessary facilities that are adequate for the density and use to which the subject property is being rezoned;

- Whether the proposed amendment will promote the health, safety, morals or general welfare of the Town.

**EXHIBIT 4  
REVIEW PROCEDURES**

Decision Type	Permit Issuer	Planning Commission	Zoning Board of Appeals	Town Board
Building Permits	D		A	
Occupancy Pmt.	D		A	
Temp. Use Pmt.	D		A	
Variances			D	
Conditional Use Permits		R	A	D
Site Plans		R		D
Text Amendments		R		D
Map Amendments		R		D

A = Appeal  
D = Decision  
R = Recommendation

**XX - 78 Zoning Ordinance Enforcement**

- Notice of Violation.** Whenever it comes to the attention of the Permit Issuer that a building or structure is or is proposed to be erected, constructed, reconstructed, altered or converted, or any use established in violation of the provisions of this ordinance, the Permit Issuer shall inform the Plan Commission and issue a stop-work order or other order requiring the correction of all conditions found to be in violation of the provisions of this ordinance. The order shall notify the responsible person that he/she shall commence correction of all violations within seven (7) days of the date of the order, and shall correct all violations within thirty (30) days of the order. If corrections are not commenced within seven days or concluded within thirty (30) days of said order, each day that a violation continues shall be considered a separate offense.
- Remedies.** In the event that the responsible person does not complete all necessary corrective measures within the time period specified in Sec. **XX - 79(1)** above, the Town Board may take any and all steps necessary to institute appropriate legal action to enjoin, correct or abate such violation.
- Penalties.** Any person who is convicted of violating any provision of this ordinance, or any order rule or regulation made hereunder, shall be fined not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of enforcement. Each day shall constitute a new violation with fine.

**XX - 79 through XX - 89 Reserved for Future Use**

## ARTICLE VIII: DEFINITIONS OF WORDS AND PHRASES

### XX - 90 Application.

In the construction of this ordinance, the rules and definitions contained in Article H shall be observed and applied, except when the context clearly indicates otherwise.

### XX - 91 Rules.

Words used in the present tense shall include the future tense; the singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure". The word "shall" is mandatory and not directory; the word "may" is permissive.

### XX - 92 Definitions.

**ABANDONMENT:** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions during periods of vacationing, remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of seasonal closure.

**ABUTS, ABUTTING:** Having a common property line or district line.

**ACCESSORY USE:** See USE, ACCESSORY.

**ADJACENT:** To lie near or close to; in the neighborhood or vicinity of.

**ADJOINING:** Touching or contiguous, as distinguished from lying near or adjacent.

**ADULT FAMILY HOME:** As defined in Section 50.01(1), Wisconsin Statutes, and licensed under Section 50.033, Wisconsin Statutes.

**AGRICULTURE or AGRICULTURAL USES:** Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, vegetables or berries; sod farming; placing land in federal programs in return for payments in kind; owning land enrolled in the conservation reserve program under 16 USC 3831-3836; participating in the milk production termination program under 7 USC 1446.

**AIRPORT, PUBLIC:** Any airport which complies with the definition contained in Section 114.002(18m), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.

**ALLEY:** A public right-of-way which affords a secondary means of vehicular access to abutting properties. A street shall not be considered an alley.

**ALTERATION:** Any change, addition or modification to the size, shape or use of an existing building or structure. (See also STRUCTURAL ALTERATION.)

**ANIMAL HOSPITALS OR POUNDS:** Land or buildings devoted to the care, feeding, or examination of animals by a veterinarian or person charged with the responsibility of caring for impounded animals.

**ANIMAL UNIT:** One (1) animal unit is equivalent to two (2) cows, two (2) horses, ponies or mules, four (4) hogs, eight (8) sheep, eight (8) goats or twenty (20) poultry.

**APARTMENT:** A room or group of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single dwelling unit, and which shall include complete kitchen facilities permanently installed. (See also DWELLING UNIT; DWELLING, MULTIPLE FAMILY).

**AUTOMOBILE:** See MOTOR VEHICLE.

**AUTOMOBILE REPAIR STATION:** A building or premises designed and used for the

storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. (See also AUTOMOBILE SERVICE STATION, CONVENIENCE STORE).

**AUTOMOBILE SERVICE STATION:** A building or premises used for offering fuels, lubricating oil, grease, tires, batteries and accessories for motor vehicles for retail sale to the public, and where light maintenance activities such as engine tune-ups, lubrication, and minor repairs are conducted. Automobile service stations do not include open sales lots. (See also AUTOMOBILE REPAIR STATION, CONVENIENCE STORE).

**AUTOMOBILE WRECKING YARD:** Any premises where the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts takes place. The presence on any lot or parcel of land of three (3) or more motor vehicles which, for a period exceeding 30 days, have not been capable of operating under their own power and have been stored in an open area visible from neighboring properties or a public right-of-way shall constitute prima-facie evidence of an automobile wrecking yard. (See also SALVAGE YARD).

**BASEMENT:** That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its floor to ceiling height is below the average finished grade. A basement or cellar shall be counted as a story if it is used for living quarters. (See also CELLAR.)

**BED AND BREAKFAST ESTABLISHMENT:** Any place of lodging that provides six (6) or fewer rooms for short-term lodging for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wisconsin Administrative Code.

**BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or other lines of demarcation. A block may be located in part beyond the boundary lines of the Town of Mitchell.

**BOARD OF APPEALS:** The Zoning Board of Appeals of the Town of Mitchell, Wisconsin.

**BOARDING HOUSE:** An establishment with long-term lodging for six (6) or fewer persons where meals are regularly prepared and served as part of the rental arrangement, and where food is placed upon the table family style, without service or ordering of individual portions from a menu.

**BUFFER:** An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, an/or other berms, designed to limit continuously the view of an/or sound from the site to adjacent sites or properties.

**BUILDABLE LOT AREA:** That portion of a lot remaining when all required yard space has been excluded.

**BUILDING:** Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to land. (See also STRUCTURE).

**BUILDING, ACCESSORY:** A subordinate structure or structures detached from, but located on the same lot as the principal structure, the use of which is incidental and related to that of the principle structure.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space, or from other buildings or structures, by a permanent roof and by exterior walls, pierced only by windows and normal entrance and exit doors.

**BUILDING, DETACHED:** A building surrounded by open space on the same lot.

**BUILDING HEIGHT:** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs as measured from the curb level if the building is not more than 10 feet from

the front lot line, or from the grade in all other cases.

**BUILDING, PRINCIPAL:** A building in which the principal use permitted on the lot is conducted.

**BUILDING, TEMPORARY:** Any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.

**BULK:** The term used to indicate the size and setback of buildings or structures, and the location of same with respect to one another, and includes the following: (a) size and height of buildings; (b) location of exterior walls; (c) floor area ratio; (d) open space allocated to buildings; and (e) lot area and lot width.

**CAMPGROUND:** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character

**CAR WASH:** An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

**CARPORT:** A roofed automobile shelter with two or more open sides.

**CELLAR:** A space having more than one-half of its floor to clear-ceiling height below average finished grade. A cellar shall be counted as a story if it is used for living quarters. (See also BASEMENT.)

**CENTER LINE:** The center line of any road or highway is the point equidistant from the right-of-way lines, regardless of the location of the surfacing, pavement, roadbed or directional separator of the roadway within the right-of-way.

**CHURCH or PLACE OF RELIGIOUS ASSEMBLY:** A building or structure primarily used as a place where religious services, meetings or related activities of any denomination are conducted.

**CLUBS, FRATERNITIES, LODGES AND MEETING PLACES OF A NON-**

**COMMERCIAL NATURE:** A non-profit association of persons, who are bonafide members paying dues, which owns, hires or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

**CLUSTER DEVELOPMENT:** A development design technique in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The remaining land is permanently reserved for recreation, common open space, and/or the preservation of environmentally sensitive areas.

**COMMERCIAL ENTERTAINMENT FACILITIES:** A structure, building or land devoted to one or more of the following uses: tavern, bar, supper club, restaurant or similar use.

**COMMUNITY LIVING ARRANGEMENT:** Any of the following facilities licensed or operated or permitted under the authority of the Wisconsin Statutes: child welfare agencies under Section 48.60; group homes for children under Section 48.02(7); community-based residential facilities under Section 50.01; and youth village programs under Section 118.42. "Community living arrangement" does not include adult family homes as defined in Section 50.01(1), Wisconsin Statutes; day care centers, nursing homes, general hospitals, special hospitals, prisons or jails. The establishment of a community living arrangement shall be in conformance with all applicable provisions of the Wisconsin Statutes, including Section 60.63 and amendments thereto, the Wisconsin Administrative Code, and the provisions of this ordinance. [See Section 60.63, Wisconsin Statutes]

**CONCESSION STAND:** A structure devoted to the sale of confections, snacks or other light meals and providing no inside seating nor drive-in service for the customers.

**CONVENIENCE STORE:** A retail establishment where packaged and/or prepared food, beverages and convenience items, and gasoline or any other motor fuels are offered for sale, but automobile maintenance services are not performed. (See also AUTOMOBILE REPAIR STATION, AUTOMOBILE SERVICE STATION).

**DAY CARE HOME:** Any facility operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of nine (9) or more children for less than twenty-four (24) hours a day. (See also FAMILY DAY CARE HOME).

**DENSITY, GROSS:** The number of dwelling units permitted per acre of land, said land area to include any existing or proposed public or private roads or rights-of-way.

**DENSITY, NET:** The number of dwelling units permitted per acre of land, said land area not to include any existing or proposed public or private roads or rights-of-way.

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

**DRIVE-IN FACILITY:** An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises.

**DWELLING:** A building or portion thereof that provides living facilities for one or more families, but not including hotels, motels or boarding houses

**DWELLING UNIT:** One or more rooms physically arranged so as to create an independent housekeeping establishment of occupancy by one family or not more than three (3) roomers, which shall include complete toilet and kitchen facilities permanently installed

**DWELLING, TWO-FAMILY (DUPLEXES):** A single residential building containing two dwelling units, separated from each other by common or party walls without openings, entirely surrounded by open space on the same lot.

**DWELLING, SINGLE-FAMILY:** A residential building containing one dwelling unit entirely surrounded by open space on the same lot.

**EXTRA-TERRITORIAL AREA:** Any area within the Town of Mitchell within 3 miles of the corporate limits of a first, second or third class city, or 1 \_ miles of a fourth class city or village. [See Section 62.23 (7a), Wisconsin Statutes]

**FAMILY:** Any number of individuals living together as a single household unit or complete domestic establishment, but not including a group occupying a boarding house or hotel.

**FAMILY DAY CARE HOME:** Any facility meeting the definition provided in Section 66.304, Wisconsin Statutes, operated by a person required to be licensed by the State of Wisconsin under Section 48.65, Wisconsin Statutes for the care and supervision of four (4) to eight (8) children for less than 24 hours a day. (See also DAY CARE HOME).

**FARMSTEAD:** One or two single-family dwellings and related structures accessory to agricultural operations located on a single parcel of land used primarily for agriculture.

**FENCE:** A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.

**FENCE, OPEN:** A fence including gates, at least fifty (50) percent of the surface area of which is open space to allow an unobstructed view through the fence.

**FENCE, SOLID:** A fence, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.

**FLOOR AREA:** The sum of the gross horizontal area of the several floors of the building, excluding areas used for off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory an incidental to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.

**FOOD PROCESSING ESTABLISHMENTS:** Commercial facilities such as canneries, cheese factories, condenseries, creameries and other such establishments for the processing, packing or manufacture of agricultural products, any portion of which are grown off-site.

**FOSTER HOME:** The primary domicile of a foster parent required to be licensed under Section 48.62, Wisconsin Statutes, which has four (4) or fewer foster children. [See Section 48.02(6),

Wisconsin Statutes] (See also GROUP HOME).

**FRONTAGE:** The length of any one property line of a premises, which property line abuts a legally accessible road right-of-way. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage.

**GARAGE, DETACHED:** A building, not attached to a dwelling, designed and used for the storage of vehicles owned and used by the occupants of the dwelling to which it is accessory.

**GARAGE, STORAGE, OR OFF-STREET PARKING:** A building or portion thereof designed or used or land used exclusively for storage of motor vehicles, and in which motor fuels and oils are not sold, and motor vehicles are not equipped, repaired, hired or sold.

**GRADE:** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**GRADE, ESTABLISHED:** The established grade of the street or sidewalk as prescribed by the Town of Mitchell.

**GROOMING SHOP:** A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight.

**GROUP HOME:** Any facility operated by a person required to be licensed under Section 48.625, Wisconsin Statutes, for the care and maintenance of five (5) to eight (8) foster children. [See Section 48.02(7), Wisconsin Statutes] (See also FOSTER HOME).

**HOME OCCUPATION:** An accessory use of a dwelling unit or accessory building for gainful employment that is clearly incidental and subordinate to the use of the premises as a residence or customary farming occupation.

**HOTEL:** A facility offering temporary lodging accommodations on a daily rate to the general public and generally providing additional services such as restaurants, meeting rooms and/or recreation facilities.

**JUNK:** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

**JUNKYARD:** See SALVAGE YARD.

**KENNEL:** An establishment licensed to operate a facility housing dogs, cats or other household pets and where selling, grooming, breeding, boarding, training for a fee, letting for hire of animals is conducted as a business.

**KENNEL, PRIVATE:** Any building or buildings or land designed or arranged for the care of dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

**LAND AREA:** When referring to a required area per dwelling unit, means "net land area", the area exclusive of public rights-of-way and other public open space.

**LAUNDERETTE:** A business that provides coin-operated self-service type washing, drying, dry-cleaning, and ironing facilities, providing that no pick-up or delivery service is maintained.

**LOADING SPACE:** A space within the principal building or on the same lot as the principal building providing for the standing, loading or unloading of trucks and with access to a street or alley.

**LOT:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, having at least the minimum area required for a lot in the zone in which such lot is located.

**LOT, CORNER:** A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

**LOT, FLAG:** A lot with access provided to the bulk of the lot by means of a narrow corridor.

**LOT, INTERIOR:** A lot other than a corner lot or through lot.

**LOT, SUBSTANDARD:** A parcel of land intended to be separately owned, developed, and otherwise used as a unit, but having insufficient size to meet the lot width, lot area, yard, off-

street parking areas, open space or other provisions of this Ordinance as pertaining to the district wherein located.

**LOT, THROUGH:** A lot having frontage on two (2) more or less parallel streets, which is not a corner lot. For the purposes of this Ordinance, both frontages shall be deemed front lot lines.

**LOT AREA:** The total horizontal area within the lot lines of a lot.

**LOT DEPTH:** The mean horizontal distance measured between the front and rear lot lines.

**LOT LINE, FRONT:** That boundary of a lot which abuts a street line. On a corner lot, the lot line having the shortest length abutting a street line shall be the front lot line.

**LOT LINE, REAR:** That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. Where the side property lines of a lot meet in a point, the rear lot line shall be assumed to be a line not less than ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**LOT LINE, SIDE:** Any lot line which is not a front or a rear lot line.

**LOT OF RECORD:** A lot whose existence, location and dimensions have been legally recorded or registered with the Register of Deeds of Sheboygan County, Wisconsin on a plat or in a deed.

**LOT WIDTH:** The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first thirty (30) feet of lot depth from the street line.

**MAIN BUILDING FACADE:** That portion of a building or structure which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets the main building facade shall contain the main entrance to such building.

**MANUFACTURED HOME:** A factory-built, single-family structure that is manufactured in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (as evidenced by the presence of a manufacturer's certification label on the unit).

**MANUFACTURING ESTABLISHMENT:** An establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or resting of materials, goods, or products.

**MARQUEE OR CANOPY:** A roof-like structure of a permanent nature which projects from the wall of a building.

**MEDICAL OFFICE:** See OFFICE, MEDICAL.

**MOBILE HOME:** A transportable, factory-built home, designed to be used as a year-round residential dwelling that was built prior to June 15, 1976, which was the effective date of the Federal Manufactured Housing and Construction and Safety Standards Act of 1974.

**MOBILE HOME PARK:** Any plot or plots of ground upon which two (2) or more manufactured homes or mobile homes are located that are occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodation. [See Section 66.058(1e), Wisconsin Statutes].

**MOTEL:** A building or group of buildings containing lodging rooms, such building or buildings being designed, intended or used primarily for the temporary lodging of automobile travelers and providing automobile parking conveniently located on the premises. Motels are primarily distinguished from hotels by their accommodation of automobiles and automobile travelers.

**MOTOR VEHICLE:** Any automobile, pickup truck, truck, truck-trailer, trailer, semi-trailer, motorcycle, motor home or other passenger vehicle propelled or drawn by mechanical power.

**NONCONFORMING USE:** A lawful use of land and/or location of buildings or structures that does not comply with current land use regulations, but which complied with applicable regulations at the time the use was established.

**NONMETALLIC MINING or NONMETALLIC MINING OPERATIONS:** Operations or activities for the extraction from the earth of mineral aggregates, such as stone, decomposed granite, sand and gravel; nonmetallic minerals including, but not limited to asbestos, beryl, clay, feldspar, peat, talc and topsoil; related operations or activities including, but not limited to excavation, grading and dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals; and related processes such as stockpiling,

crushing, screening, scalping, dewatering and blending.

**NOXIOUS MATTER OR MATERIAL:** A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

**NURSING HOME:** A home for aged, chronically ill, infirm, or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three (3) or more persons, not members of any family residing on the premises, are received and provided with food, shelter and care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

**OFFICE, MEDICAL OR PROFESSIONAL:** A professional office or offices, the principal use of which is for offices of physicians, chiropractors, dentists or other licensed health care practitioners for examination and treatment of persons on an outpatient basis, or offices for attorneys, accountants or other professional service providers.

**OFFICE, COMMERCIAL:** A building or portion thereof wherein services are performed involving predominantly managerial, administrative or clerical operations.

**OFFICIAL MAP:** The Official Map of the Town of Mitchell.

**OPEN SALES LOT:** Land used or occupied for the purpose of buying, selling, or renting merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes automobiles, trucks, motor scooters, motorcycles, boats or similar commodities.

**OPEN SPACE:** That part of the lot area not used for buildings, parking, or service. Open space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, pools, water courses, wooded areas and paved surfaces used as access drives but not used for vehicular parking of any kind.

**PARKING LOT:** A structure or premises containing five (5) or more parking spaces open to the public.

**PARKING SPACE:** An enclosed or unenclosed, area reserved for off-street parking for one motor vehicle and which is accessible to and from a street or alley.

**PARTIES OF INTEREST:** Shall, at a minimum, include the applicant, the owner of the subject property (if different than the applicant) and all adjacent property owners.

**PET SHOP:** An establishment wherein any person, partnership or corporation is engaged primarily in the retail sale of household pets and pet supplies.

**PERMIT ISSUER:** The officer or other designated authority charged with the administration and enforcement of this ordinance, or his/her duly authorized representative.

**PLANNING COMMISSION:** The Planning Commission of the Town of Mitchell, Wisconsin.

**PRINCIPAL USE:** See USE, PRINCIPAL

**PROFESSIONAL OFFICE:** See OFFICE, PROFESSIONAL.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING:** See NONMETALLIC MINING.

**RECREATION AREA:** A recreation area included park, playground, ballfield, ski hill, sportfield, swimming pool, golf course, commercial riding stables or riding academies or other facilities and areas constructed for recreational activities and open for use by public or private organizations.

**RETAIL:** The sale of goods or merchandise in small quantities to the consumer.

**ROADSIDE STAND:** An enclosed or semi-enclosed structure, no larger than 50 square feet in ground area, used or intended to be used for the sale of farm products solely by the owner or tenant of the farm on which such structure is located.

**ROADWAY:** That portion of a right-of-way that is used or intended to be used for the travel of motor vehicles.

**SALVAGE YARD:** An open area where junk, wastes, used, or secondhand materials are bought, sold, exchanged, stored, processed or handled. An Automobile Wrecking Yard is also considered a salvage yard.

**SANITARY LANDFILL:** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two (2) feet on the top surface and one (1) foot on the sides of the bank, which sides shall have a least 1:2 slope.

**SELF-SERVICE STORAGE FACILITY:** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and or personal goods.

**SETBACK:** The minimum horizontal distance between the roadway center line or road right-of-way, as applicable, and the nearest vertical wall or other element of a building or structure, excluding steps.

**SHORELAND JURISDICTION:** The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.

**SHORELAND WETLAND:** A wetland, as defined by this Ordinance, which is located within a shoreland area.

**SITE PLAN:** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

**SLOPE:** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

**SPECIAL EXCEPTION:** See USE, CONDITIONAL.

**STORAGE, OUTDOOR:** Land outside any building or roofed area and used for the keeping of goods, supplies, raw material or finished products.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders; except that the application of any exterior siding to an existing building for the purpose of beautifying or modernizing shall not be considered a structural alteration. (See also ALTERATION).

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground. The term “structure” shall include, but not be limited to, buildings, signs, foundations, concrete and asphalt pads and equipment boxes.

**TAVERN:** An establishment where liquors are sold to be consumed on the premises but not including restaurants where the principal business is the serving of food.

**TEMPORARY STRUCTURE:** A movable structure not designed for human habitation nor for the permanent storage of goods or chattels.

**TOWN:** Town of Mitchell, Wisconsin.

**TOWN BOARD:** The Board of Supervisors of the Town of Mitchell, Wisconsin.

**TRAILER, BOAT or CARGO:** A vehicle designed exclusively for the transportation of one boat or less than 10 foot beam and 30 foot length or, if used for the hauling of cargo, not over seventy (70) square feet in cargo floor area.

**TREATMENT FOSTER HOME:** As defined in Section 48.02(17q), Wisconsin Statutes.

**TREE, CANOPY:** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are often referred to as shade trees.

**TREE, UNDERSTORY:** A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees.

**USE:** The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, ACCESSORY:** A use clearly incidental and subordinate to, and on the same lot as a principal use.

**USE, CONDITIONAL:** A use that would not be appropriate generally as a permitted use in the zoning district, but which may be allowed in the district after the imposition of special restrictions or requirements different from those usual restrictions for the district in which the use is located..

**USE, PERMITTED:** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL or PRIMARY:** The primary use of land or structures, as distinguished from a secondary or accessory use.

**UTILITIES, ESSENTIAL SERVICES:** Services provided by public or private utilities, necessary for the exercise of a principal use or service of a principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, pumps, lift stations and hydrants.

**UTILITIES, MAJOR:** Major public facilities serving community- or region-wide needs, such as water treatment plants, sewage disposal plants, municipal incinerators, municipal warehouses, landfills, shops and equipment and storage yards.

**UTILITIES, MINOR:** Public facilities such as water wells, water and sewage pumping stations, water storage tanks, electric power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, and buildings accessory thereto.

**VISION CLEARANCE TRIANGLE:** An area intended to be maintained in a manner which does not significantly obstruct a motorist's vision of an intersecting street.

**WATERCOURSE:** A permanent or intermittent stream channel.

**WETLAND:** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

**WOODLAND:** An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast (DBH) of at least ten (10) inches; or any grove consisting of fifteen (15) or more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove. However, no trees grown for commercial purposes should be considered a woodland.

**YARD:** An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**YARD, FRONT:** The portion of the yard on the same lot as the principal building, located between the front line of the principal building extended to the side lot lines and the front lot line.

**YARD, REAR:** The portion of the yard on the same lot with the principal building, located between the rear line of the principal building extended to the side lot lines and the rear lot line.

**YARD, SIDE:** A yard extending along the side lot line between the front and rear yards.

**ZERO LOT LINE:** The location of a building on a lot such that one or more of the building's sides rests directly on a lot line.

**ZONING DISTRICT:** Areas delineated on the Zoning Map of the Town of Mitchell within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this Ordinance, and within which certain yards and other open spaces, lot areas, building sizes and density requirements may be required or regulated, or within which other such regulations are applied.