

PREAMBLE: AUTHORITY: The Town Board of the Town of St. Croix Falls has the specific authority, powers and duties, pursuant to Sec. 60.61, 60.62, 61.35 and 62.23, (1989-1990) Wisconsin Statutes, pursuant to the specific statutory sections noted in this ordinance and by the adoption of village powers under Sec. 60.10, Wisconsin Statutes, by the electors of said Town on April 4, 1964; and by the granting (to said Board) of powers to zone under the above statutory provisions by the electors of said Town (at a legally called and noticed Special Town Meeting on May 12, 1994) to zone certain areas in the Town of St. Croix Falls and to regulate, prohibit, and restrict construction, alteration, erection and enlargement of certain structures and buildings in the Town of St. Croix Falls and to regulate and control certain uses, activities, businesses and operations in the Town of St. Croix Falls. Ordinance Number 1: ZONING, adopted April 21, 1964 is hereby amended, in its entirety, and shall now read as follows:

## **ORDINANCE NUMBER 1: ZONING CODE**

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

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

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

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

An ordinance to promote the health, safety, morals, and general welfare: To regulate and restrict the percentage of a lot which may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures, and land for trade, industry, residence and other purposes. For the said purpose to divide the Town of St. Croix Falls, Polk County, Wisconsin, into districts of such number, shape and area as are deemed best enforcement, and to provide penalties for its violation.

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

This section describes how this ordinance shall be administered.

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

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

**Section D.     ZONING ADMINISTRATOR**

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

district, the Zoning Administrator shall decide the matter. The person contesting the matter shall be given a reasonably opportunity to present his/her case to the Zoning Administrator and to submit his/her own technical evidence, if he/she so desires. The Board of Adjustments may review decisions of the Zoning Administrator as an appeal.

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

**Section E. ZONING AND SANITARY PERMITS**

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

- a. The Erection, Addition or Alteration of any Building, Structure or Portion therefore. Construction of any new structure or any addition to an existing structure shall require a Land Use Permit from the Town, except accessory structures under 144 square feet do not need to obtain a land use permit. The project still must meet all the applicable requirements for obtaining a land use permit including, but not limited to,

setbacks, height, and number of structures per parcel. In addition, only one (1) structure per parcel may be constructed with this exemption.

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

2. APPLICATION FOR A PERMIT.

- a. Application for permits shall be made to the office of the Town Zoning Administrator upon forms furnished by the Town Zoning Administrator.
- b. All applications shall contain the following data:
  - (1) Name and address of the applicant and the owner of the property.
  - (2) Legal description of the property, volume and page of the records of the Polk County Register of Deeds at which is located the recorded legal description of the parcel in the form of a plat or survey map, deed or similar instrument and type of proposed use. (Where the Town Zoning Administrator has any doubt as to the location of the project in relation to any boundary, he may require the applicant to provide a certified survey map. Such maps are not to be required when an existing structure is remodeled or repaired and does not expand the physical dimensions of the structure.)
  - (3) A sketch of the dimensions of the lot and location of any buildings from the lot lines, centerline of abutting roads and water (with water level marks at the day of the sketch).
- c. Where a private water or sewerage system is to be installed, the application shall contain the following information in addition to that required above:
  - (1) Permit number of the county sanitary permit.
- d. When the application concerns land subject to floodplain zoning, the plans shall also include detailed information on the elevation of the lot and the location of existing or proposed fill or storage materials. This shall be in addition to that required by 2 b. and 2 c. above.
- e. Applications which are found to involve slopes in excess of 12%, by the Zoning Administrator on the basis of slope indications on the application, sketch or observations made in the course of field inspection, shall be approved only if the proposed construction is in compliance with erosion control conditions set in the course of subdivision review under Ordinance 5 or in the case of properties not subject to such conditions, if the project is deemed not to threaten serious erosion or sedimentation problems. The Administrator may attach reasonable erosion prevention conditions to a permit approved for issuance.
- f. Permits or special exceptions issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use arrangement or construction at variance with that authorized shall be deemed a violation of this chapter.

3. FEES:

- a. Schedule. Whenever an applicant files an application for any permit, or review in this chapter, the applicant shall pay a fee as set forth in the Town Schedule of Fees Ordinance.
- b. Temporary occupancy permits. Any other provisions to the contrary notwithstanding, no person shall place, occupy or use a trailer, van, mobile home, recreational vehicle, tent, bus, truck, automobile or similar apparatus for residential purposes, temporary or permanent, on any parcel not having a legal and occupied principal structure other than in areas specifically zoned and approved for such occupancy. However, the owner of a parcel who holds a valid zoning and sanitary permit for construction of a principal structure may apply for and obtain approval for temporary placement and occupancy of a mobile dwelling unit during construction of condition of connecting such unit to and use of a legal sanitary system. All town approved applications will be contingent upon filing by the applicant of a deed restriction by which the property owner agrees to abide by all Town and County conditions and to obey time deadlines for removal of the unit unless the dead lines are extended by the Zoning Administrator. All residential occupancy of the mobile home unit shall cease, and the mobile home shall be removed from the property when the principal home is capable of occupancy.

**Section F. NONCONFORMING USES AND STRUCTURES**

1. GENERAL LIMITATIONS

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

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

2. FLOODPLAIN NONCONFORMING USES.

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

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

otherwise protected in conformity with State and County Regulations and Legislation regarding Floodplain Zoning, and with written permission of the County Zoning Administrator.

**Section G. TOWN PLAN COMMISSION**

1. AUTHORIZATION AND COMPOSITION.

The Town Board Chairman, exercising village powers under Wisconsin Statutes 60.10(2)(c), and, under authority of Wisconsin Statutes 61.35 and 62.23, shall appoint a Plan Commission, which he shall chair. Membership shall include the Town Board Chairman and six (6) citizen members, and one (1) citizen alternate. Such appointments shall be, except for the initial Commission for a three (3) year term. The initial Plan Commission appointments shall be: two (2) members and one (1) alternate for three (3) years; two (2) members for two (2) years; and two (2) members for one (1) year. Terms are to commence upon appointment, and on July 1<sup>st</sup>, on each succeeding year. Appointments to fill any vacancy shall be for the remainder of the vacant term. The alternate member shall have all rights and powers of a regular member, except that he shall not have a vote unless a regular member is absent or unless a regular member has a matter before the Plan Commission. All appointments shall be subject to confirmation by the Town Board.

2. PROCEDURAL RULES.

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

3. POWERS AND DUTIES.

The Plan Commission shall:

- a. Adopt such rules as it considers desirable for the conduct of business, subject to the provisions of this section and relevant Statutes.
- b. Make recommendations to the Town Board on special exceptions as provided in Section I. of this Chapter.
- c. Review Land Use Laws and develop a long term land use plan for the Township.

4. PROCEDURES.

- a. Hearings on Special Exceptions and Commercial Design Guidelines. Upon filing with the Plan Commission of an application for a special exception or review of the Commercial Design Guidelines, the Plan Commission shall hold a public hearing. The Commission shall fix a reasonable time for the hearing, give notice by mail to all property owners within 1000 feet of any portion of the property that utilizes the proposed use. Additional notices will be sent to any lake association for any use within 1000 feet of that lake, to any municipality that has property within 1000 feet of the proposed use, to the office of any state park if the use is within 1000 feet of the state park, and to the National Park Service for any use within 1000 feet of any park land, and publish a Class 2 notice under

Chapter 985, Wisconsin Statutes. When the matter concerns shoreland or floodplain regulations the Commission shall submit to the County Zoning Administrator, a copy of the notice and application for a special exception, sufficiently in advance so that the County will receive at least ten (10) days notice of the hearing. At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record. It is the intention of this Ordinance that the decisions on a special exception, including any conditions attached to such special exception, not be appealable to the Board of Adjustments.

- b. Keep Records. The Town Plan Commission shall keep minutes of all meetings and records of all special exceptions granted (with and conditions established) and other official actions.
- c. Make and Give Notice of Decisions Made. The Commission shall make a decision on any matter brought before it in a timely manner, and make a written report of their decision or recommendation available to the applicant, the Zoning Administrator and the Town Board within thirty (30) days of any hearing held. Any special exception application that is denied cannot be reapplied for twelve (12) months from denial. Any special exception permit that is revoked cannot be reapplied for twenty-four (24) months from revocation.

## **Section H. BOARD OF ADJUSTMENTS**

### **1. AUTHORIZATION AND COMPOSITION**

The Town Board Chairman exercising village powers under Wisconsin Statutes 60.10(2)(c), shall appoint under authority of Wisconsin Statutes 61.35 and 62.23, a Board of Adjustments consisting of a chairman, four (4) regular members and first and second alternates, who shall vote only in the absence of regular members. All appointments shall be subject to confirmation by the Town Board.

### **2. PROCEDURAL RULES.**

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

### **3. POWERS AND DUTIES.**

The Board of Adjustments shall:

- a. Adopt such rules, as it considers desirable for the conduct of business, subject to the provisions of this section and relevant Statutes.
- b. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or commission in the enforcement or administration of this chapter. The provisions of Section H shall govern all such appeals.

- c. Whenever there is a dispute over the exact boundary of a district, the Board shall decide the matter as an appeal. Where boundary disputes concern floodplains, the regional flood elevation for the point in question shall be the governing factor in locating the floodplain boundary on the land. The person contesting the matter shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence, if he/she so desires.
  - d. If, after hearing the evidence, the Board makes a finding that there was an error, the Board may order the error corrected.
  - e. The Board may grant variances from the strict terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship so that the spirit of the ordinance shall be observed and substantial justice done. Variances shall be granted only subject to the provisions of Section H. No variance shall have the effect of allowing in any district, uses not permitted in that district.
4. PROCEDURES.
- a. Appeals from Actions of Administrative Officials. Appeals to the Board of Adjustments may be taken by any person aggrieved or by the officer, department, board, commission or committee of the Town affected by the decision of the Zoning Administrator. Such appeal shall be taken within reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustments a notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
  - b. Stay of Administrative Actions. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustments, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order from the Board of Adjustments or a court of law.
  - c. Hearings on Appeals or Variances. Upon the filing with the Board of an appeal from a decision of the Zoning Administrator, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and publish a Class 2 notice under Chapter 985, Wisconsin Statutes, as well as giving due notice by mail to all property owners within 1000 feet of any portion of the property that utilizes the proposed use. Additional notices will be sent to any lake association for any use within 1000 feet of that lake, to any municipality that has property within 1000 feet of the proposed use, to the office of any state park if the use is within 1000 feet of the state park, and to the National Park Service for any use within 1000 feet of any park. When the matter concerns shoreland or floodplain regulations, the Board shall submit to the County Zoning Administrator, a copy of the notice and application for the proposed variance sufficiently in advance so that the County will receive at least ten (10) days notice of the hearing. At the hearing, any party may appear in person or by agent or attorney and present written and oral evidence for the record. The Board shall use those standards, as prescribed for special exceptions (where applicable), in its deliberations on whether or not to grant a variance.
  - d. Decisions on Appeals or Variances. The Board shall arrive at a decision on such appeal within a reasonable time. In passing upon an appeal the Board may, so

long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and it shall make its decision in writing setting forth the findings of fact and the reasons for its decision. No variances affecting any provision of the shoreland or floodplain regulations shall be granted without the written approval of the County Zoning Administrator.

- e. Variances in Floodplain areas. No variance in a floodplain area shall have the effect of allowing uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation (a point two (2) feet above the regional flood level) for the area or permit standards lower than those required by State law or County ordinance.
- f. Conditions Attached to Variances. In granting a variance, the Board of Adjustments may prescribe appropriate conditions and safeguards which are in uniformity with the purposes of this chapter. In the case of variances from the floodplain regulations, this includes the measures outlined in Section I.2. below. Violations of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this ordinance.

## **Section I. SPECIAL EXCEPTIONS**

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

- 1. GENERAL STANDARDS.
  - a. No grant of a special exception shall violate the spirit or general intent of this ordinance.
  - b. No special exception shall be allowed which would be contrary to the public health, safety, or general welfare or which would be substantially adverse to property values in the neighborhood affected.
  - c. No use shall be permitted by special exception that would constitute a nuisance by reason of noise, dust, smoke, odor, or other similar factors.
  - d. The Board shall also apply standards set forth in other sections of this ordinance, which apply to particular classes of special exceptions.
- 2. FACTORS FOR SPECIAL EXCEPTIONS IN FLOODPLAIN ZONING.

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

  - a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that material may be swept onto lands or downstream to the injury of others.
  - c. The proposed water supply and sanitation system and the ability of these systems to prevent the occurrence of disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage to the individual owners.
  - e. The importance of the services provided by the proposed facility or use to the community.

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

enlargement of a structure, the Plan Commission shall, prior to rendering a decision of the application:

- (1) Require the applicant to furnish such of the following information as is deemed necessary by the plan Commission for determining the suitability of the particular site for the proposed use:
    - (a) Plans in triplicate, drawn to scale, showing the nature, location dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures and the relationship of the above to the location of the channel.
    - (b) A valley cross section showing the channel of the stream elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development and high water information.
    - (c) Plan (surface view) showing elevations or contours of the ground; pertinent structures, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of all streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.
    - (d) Profile showing the slope of the bottom of the channel or flow line of the stream.
    - (e) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage or materials, water supply and sanitary facilities.
  - (2) Transmit the information to the Department of Natural Resources or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of potential flood damage to the use, the adequacy of the plans for protection and other technical matters.
- c. Based upon the technical evaluation, the Plan Commission shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.
  - d. Where a provision of the shoreland sections is involved, the Plan Commission shall, prior to rendering a decision on the application, require the applicant to furnish, in addition to the information otherwise required for a special exception permit, the following information.
    - (1) A plan of the area showing contours, soil types, high water mark, groundwater conditions, bedrock, slope and vegetative cover.
    - (2) Location of buildings, parking areas, traffic access driveways, walkways, piers, open spaces.
    - (3) Plans of buildings, sewage disposal facilities, water supply systems and arrangements of the operations.
    - (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
    - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.
  - e. In evaluating each application the Plan Commission shall request the County Soil and Water Conservation District to make available expert assistance from those State and Federal agencies which are assisting such district under a memorandum of understanding and any other State and Federal agencies which can provide technical assistance.

5. SPECIAL PROCEDURES FOR SPECIAL EXCEPTION USES IN THE GENERAL FLOODPLAIN DISTRICT.

In considering an application for a special exception use in the Floodplain District, the Planning Commission or Board of Adjustments shall, where necessary:

- a. Estimate the discharge of the regional flood consistent with applicable State floodplain management rules.
- b. Determine the specific flooding threat at the site of the proposed special exception permit use and determine whether the use is located in a flood fringe portion of the Floodplain District by:
  - (1) Calculation of water surface elevations based on a hydraulic analysis of the capacity of the stream channel and overbank areas to convey the regional flood.
  - (2) Computation of the floodway required to convey this flood without any measurable increase in the flood heights. Computation of increases in flood heights caused by any encroachment shall be based upon the reasonable assumption that there will be an equal degree of encroachment on both sides of the stream within that reach.
- c. Based upon the technical evaluation of the designated engineer or expert, the Plan Commission shall evaluate the effects of the proposed use upon the public health, safety and general welfare in light of the purposes of and standards established by this chapter and deny, grant or conditionally grant the application for the proposed use.
- d. No structure (temporary or permanent) fill, including fill for roads and levees, deposit, construction, storage of materials or other floodplain uses shall be permitted which acting alone or in combination with existing or future floodplain uses will adversely affect valley storage of the floodplain or affect the efficiency of the capacity of the floodway or increase the flood heights based on the assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

6. CONDITIONS

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

- a. The period of time in which all or part of the use may be permitted.
- b. Increased setback and yard dimensions.
- c. Specified sewerage disposal and water supply facilities.
- d. Landscaping and planting screens.
- e. Operational control.
- f. Sureties.
- g. Deed restrictions.
- h. Location of docks, piers or other structures, sign, etc.
- i. Location and amount of parking facilities.
- j. Type of construction.
- k. Type of shore cover.
- l. Any special exception involving transient lodging, bed and breakfast establishments, or motels or hotels shall have the owner or a designated manager with fifteen (15) miles of the proposed use.

- m. Any special exception involving transient lodging, bed and breakfast establishments, or motels or hotels shall have at least one (1) off-street parking space per bedroom or room to be rented.
- n. Commercial Design Guidelines may be required for Commercial type projects in any district.
- o. For special exceptions involving campgrounds there is a minimum parcel size of 20 acres and a minimum camp site of 40 feet by 80 feet.
- p. For special exceptions involving campgrounds there shall be at least two off street parking spaces per camp site.
- q. For special exceptions involving campgrounds there shall be a minimum setback of 50 feet from any site to a property line, and buffers or screening may be required.
- r. For special exceptions involving campgrounds, an approved traffic plan for inside the campground as well as ingress and egress to public roads shall be required.
- s. For heliports, a copy of the FAA approval if it is needed.
- t. For heliports, an aerial flight plan of projected flights.
- u. Any other conditions as deemed necessary by the plan commission and/or Town Board.

7. CONDITIONS SPECIFICALLY APPLICABLE TO A SPECIAL EXCEPTION IN FLOODPLAIN ZONING.

Where a provision of the floodplain section is involved, the Plan Commission shall also impose any of the following conditions which it deems necessary:

- a. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- b. Flood proofing measures such as the following shall be designated at or above a point two (2) feet above the regional flood elevation for the particular area. The Commission shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are at or above a point two (2) feet above the regional flood elevation and associated flood factors for the particular area. The following flood proofing measures may be required without limitations because of specific enumeration:
  - (1) Anchorage to resist flotation and lateral movement.
  - (2) Installation of watertight doors, bulkheads and shutters or similar methods of construction.
  - (3) Reinforcement of walls to resist water pressures.
  - (4) Use of paint, membranes or mortars to reduce seepage of water through walls.
  - (5) Addition to mass or weight to structures to resist flotation.
  - (6) Installation of pumps to lower water levels in structures.
  - (7) Construction of water supply and waste treatment systems so as to prevent the entrance of flood water.
  - (8) Pumping facilities or comparable practices for sub-surface drainage systems for buildings to relieve external foundation or wall and basement flood measures.
  - (9) Construction to resist rupture or collapse caused by water pressure or floating debris.
  - (10) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back-up of sewage and storm

waters into buildings or structures. Gravity draining of basements may be eliminated by use of mechanical devices.

- (11) Locations of all electrical equipment, circuits and installed electrical appliances so as to provide protection from inundation by the regional flood.
- (12) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at a point above the regional flood elevation of their flood proofing so as to prevent floatation of storage containers or damage to these which could result in the escape of toxic materials into flood waters.

## 8. SPECIAL PROCEDURES FOR SPECAIL EXCEPTION USES IN THE EXCLUSIVE AGRICULTURAL DISTRICT.

(This section has been deleted until such time as an "Exclusive Agricultural" District has been created and certified.)

## 9. SPECIAL EXCEPTION FOR INDUSTRIAL SAND MINING

### Section 1. Findings and Purpose.

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

(2) Purpose. The purpose of these provisions is to provide minimum standards for all industrial sand mining operations in the Town, in order to protect public health and safety, to preserve the scenic beauty of the Town's landscapes and environment, to protect the public from damage to both the quantity and quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of St. Croix Falls.

### Section 2. Applicability and Scope.

(1) The provisions of this Section shall apply to all industrial sand mining operations and mine sites within the Town of St. Croix Falls except as set forth in sub. (2).

(2) This Section (I)(10) shall not apply to the following industrial sand mining operations:

- (a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
- (c) Grading conducted for preparing a construction site (except a industrial sand Mining site) or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes conducted on the building site.

(e) Industrial sand mining at industrial sand mining sites where less than ten (10) acres of total affected acreage occurs over the life of the mine.

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

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

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

(2) "Industrial sand mining" means any or all of the following:

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

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

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

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

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

(f) Disposal of waste materials.

(g) Reclamation of the extraction site.

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

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

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

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

(7) "Town" means the Town of St. Croix Falls, in Polk County, Wisconsin.

(8) "Town Board", means the Town Board of the Town of St. Croix Falls, in Polk County, Wisconsin.

(9) "Operator" means any person who is engaged in, or who has applied for a permit to engage in industrial sand mining, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.

Section 4. Special Exception Permit.

Neither industrial sand mining, nor the operation of a mine site are permitted uses in any zoning district in the Town. However, they are special exception uses in certain zoning districts as more particularly set forth in this Zoning Ordinance.

(1) Permit Requirement. No person shall operate an industrial sand mine site within the scope of this Ordinance in the Town of St. Croix Falls without first obtaining a Special Exception Permit (in the districts in which such a permit is available) from the Town Board.

- (2) Permit Term
  - (a) A Special Exception Permit for operation an industrial sand mine site shall be granted for a period of two (2) years commencing on the date the special exception permit is issued and ending on the second anniversary of the issuance of the permit.
  - (b) An Special Exception Permit may be renewed in the same manner as receiving an initial permit.
- (3) Permit Amendment. If the Town has issued a Special Exception permit, the Operator may request an amendment to that permit during the permit term, using the same process as the original permit application.
- (4) Permit Transfer. An Operator's permit may be transferred to a new Operator only with the prior written permission of the Town Board, which shall be granted if the new Operator agrees to the conditions in place with the current Operator and if the new Operator provides all financial assurances as may be required by the Town, county, or state. For clarity, if the current Operator enters into a Mining Agreement with the Town, pursuant to Section \_\_\_ of this Ordinance, the current permit may not be transferred unless and until the new Operator agrees with the Town in writing to assume all of the obligations under said Mining Agreement and to abide by the terms and conditions set forth in said Mining Agreement.
- (5) Permit Revocation. An Operator's permit may be revoked under the procedures set forth in this Ordinance.

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

- (1) Application Form. The Application Form for a permit to mine in the Town of St. Croix Falls shall be available from the Town Zoning Administrator.
- (2) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section6 to the Town Zoning Administrator accompanied by the payment of both the application fee and the base administrative fee established for the administration of this Ordinance in amounts set forth in the Town of St. Croix Falls schedule of fees. The fees shall be made payable to "Treasurer, Town of St. Croix Falls." The Application Form shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.
- (3) Initial Review.
  - (a) Preliminary Review. The Zoning Administrator shall conduct an initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary, the application shall be scheduled for consideration as set forth in this Ordinance.
  - (b) Additional Information. The Zoning Administrator, Town Plan Commission or Town Board may request the applicant to submit additional information if the Town Board determines that application is incomplete. With the approval of the Town Board, the Zoning Administrator or Plan Commission may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Plan Commission, Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance.
  - (c) Additional fees. If the Town Board determines that additional expertise is required, the Town Board shall authorize retaining the services of an engineering firm, attorney or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of the services of any such retained expert. The additional fee shall be paid before the additional review is undertaken.
  - (d) Report. Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the

Zoning Administrator, Plan Commission and Town Board on whether the application meets the requirements of this Ordinance.

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

#### Section 6. Permit Application

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

(1) Ownership Information.

(a) The name, address, phone number(s), and e-mail address of the Operator of the industrial sand mining operation.

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

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

(2) Site Information and Maps.

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

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

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

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

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

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

(g) A description of the distribution, depth and type of topsoil on the site as well as the geological composition and depth and width of the Industrial Sand deposit.

(h) For manufacturing, drying, transfer, transload or processing facilities within the Town, a map identifying the location of all other non-contiguous sites within the Town of St. Croix Falls and any other municipality, if any, that will contribute extracted material to the same manufacturing, drying, transfer, transload or processing facility to which the site for which the applicant seeks a permit.

(3) Operation Plan

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

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

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

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

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

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

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

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

(4) Information Demonstrating Compliance with Minimum Standards.

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

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

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

#### Section 7. Minimum Standards of Operation

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

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

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

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

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

(5) The Operator shall provide a buffer area of a minimum of 50 feet along bordering property lines and public roadways.

- (6) The Operator shall screen the mining operations from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures. Prior to construction, the Town shall be consulted on the analysis and configuration of berm construction and placement.
- (7) The Operator shall limit normal hours of operations to 12 hours a day Monday through Friday during daylight hours and not later than 6:00 pm to minimize off-site impacts to residents. The Operator may submit a plan for extended hours as part of its application or as part of a Mining Agreement, if it can demonstrate that additional hours are reasonably necessary for the mining operation and it would be consistent with public, health safety and welfare.
- (8) The Operator shall limit night lighting on site, to that which is minimally necessary for security and, wherever possible, shall be shielded from illuminating off-site areas. Full cut-off shrouds shall be employed at the mine site. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky. Upon written complaint of light pollution made to the Town Board, the Town shall notify Operator, which shall take steps to mitigate the light pollution by redirecting the lighting and taking other reasonable steps to address the complaint.
- (9) The Operator shall minimize backup alarm sounds as much as possible, and use “white noise” backup alarms to the extent permitted under federal and state regulations.
- (10) No jake braking of trucks entering and leaving the mine site. Operator shall inform all truck drivers and any independent contractors that they must comply with the no jake braking rule and all other applicable traffic codes. If a trucker disregards this notice, Operator shall take steps to correct the action or stop using any such trucking company that refuses to comply.
- (11) Noise at the boundary of the mine site shall not exceed 60 decibels.
- (12) Mining operations shall have at least one monitoring well for every 10-acre sector of the mine site, and the Operator shall take quarterly samples for lead, arsenic and any other toxic metal that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.
- (13) The Operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the industrial sand mining operation have been or will be obtained prior to commencement of operation. During the operation of the mine site, the Operator shall comply will all local, state and federal laws, rules, regulations and ordinances.
- (14) Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within one (1) mile of the mine site. A significant reduction is a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis. See Section 9 of this Ordinance for further details.
- (15) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within one (1) mile of the mine site, including but not limited to, a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.
- (16) Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural or municipal functions such as fire protection. Adverse effects include but are not limited to a reduction of water in streams, lakes and tributaries to or below base flows established prior to the beginning of mining operation.
- (17) Operator shall repair any damage to, and remove sediment from any private property, or town roads, ditches and other drainage ways when Operator is found responsible by the Town for such sediment or damage caused by runoff from the mine site for any reason, including but not limited to heavy rains and/or snowmelt runoff.
- (18) The Operator will work with the Town to develop a haul route which will set forth the Town roads that may be utilized by the Operator in hauling materials to or from the mine site (or

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

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

#### Section 8. Financial Assurances.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Within 24 hours of receipt of such notice under sub (2), the Town may use funds provided under Section 8 (if applicable) to provide an adequate interim water supply. If

applicable, the Town shall also use funds under Section 8 to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under sub (4).

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

(5) The Town shall in consultation with the property owner review the report or plan and approve or deny such report or plan. If the Town determines that the Operator's report is incorrect or insufficient, the Town may continue to provide an interim water supply (if a fund for the same has been set up pursuant to Section 8) during any subsequent negotiations, mediation, or litigation. If the Town determines that the mine Operator was not the cause of damage to the private water supply, the Operator may elect to seek reimbursement by the property owner for the costs of supplying interim water during a period not exceeding one year.

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

#### Section 10. Mining Agreement

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

### **Section J. IMPACT STUDIES AND REPORTS**

#### 1. PURPOSE.

In the administration of this ordinance, the various boards and committees which are assigned decision-making responsibilities hereunder will find themselves occasionally confronting proposed land use changes which have unusually significant consequences or which arouse unusually high levels of citizen interest. In such cases, the unit responsible for making the decision may find that the procedures specified in the sections of this chapter which govern the case do not allow for a full and complete examination and articulation of the environmental and other impacts of the proposed change in use. This situation is to be expected since the procedures set forth herein are generally tailored to the more average or routine cases and are designed to balance, in such cases, the need of the board or committee for information against the burdens which a more complete procedure would impose upon landowners. The purpose of this subsection is to provide a special procedure for the handling of more complex cases or applications.

#### 2. COVERAGE.

This section shall apply to:

- a. Proposed amendments to the Town land use regulations governed by Ordinance Number 1.
- b. Proposed special exception uses governed by the general zoning provisions of this ordinance.
- c. Variances and appeals governed by this chapter.
- d. Proposed minor or full subdivisions to which the suitability standards of the subdivision regulations or Ordinance 5 are being applied.

3. **DETERMINATION THAT IMPACT STUDIES ARE NEEDED.**  
 The board or committee which has before it a matter listed in this subsection, may, for reasons stated in a written determination, decide that the particular application, petition or matter raises unusually significant questions or impact (environmental or other) or that an unusually high level or citizen interest has been evidenced in the proposed use, change or amendment, or both. Such decision shall be followed by adoption by the board or committee of a resolution in which it shall set forth the impact questions on which it requires research, data and input from affected or interested persons. The listing of impact questions can include items of data, which this ordinance already enables the board of committee to obtain, or, it may include additional items of information which are relevant to the impact questions; specified in the resolution. The resolution may also assign responsibility for the acquisition of data on the specified impact questions to County agencies or officials, to officials or agencies in other units of government who have or may be willing to assist or to the developer or applicant. The resolution may set a date for the return of the requested data and information and it may specify the format in which the data is to be presented.
  
4. **HEARINGS ON THE IMPACT STUDIES.**  
 Following the return to the board or committee of the data called for in the resolution adopted under paragraph 3 above, the board or committee shall cause the information to be compiled in the form of an impact report. The board or committee shall make such report available for scrutiny by the applicant or petitioner, by other interested persons or agencies, and shall schedule and hold a public hearing on the findings of the report. The hearing shall be preceded by a Class 2 notice under Chapter 985, Wisconsin Statutes. Persons attending such hearing shall be afforded an opportunity to comment on the report and to make recommendations as to the weight which the board or committee should give to the report or data therein in deciding the matter pending before it.
  
5. **SUSPENSION OF TIME LIMITS TO ALLOW FOR IMPACT STUDY AND REVIEW.**  
 Prior to commencing activities under this subsection, the Board or Committee shall consult the sections under which it is operating and its legal counsel to determine the time limits, if any, which are placed upon its deliberations on the matter before it. Other provisions of this chapter notwithstanding, those time limits that are not specified in state law and which do not permit the board or committee sufficient time to conduct an impact review under this section may be suspended by passage of the resolution described in paragraph 3. In the case of time limits set by state law which conflict with the availability of reasonable time for an impact review, a formal request shall be made to the applicant for consent to a reasonable and adequate extension of time.

**Section K.      CHANGES AND AMENDMENTS**

1. The Town Board, the Plan Commission, the Board of Adjustments, and other government bodies and any private petitioners may apply for an amendment to the text of this Ordinance, to the District boundaries hereby establish, or by amendments thereto, in the accompanying zoning map (made a part of this chapter by reference).
  
2. **PETITION FOR CHANGES OR AMENDMENTS.**

Petitions for any change to the district boundaries and map(s) or amendments(s) to the text of this Ordinance, shall:

- a. be on forms supplied by the Zoning Administrator;
  - b. be addressed to the Town Board and Plan Commission;
  - c. be filed with the Zoning Administrator;
  - d. include a full description of the premises to be rezoned or the portions of the text of regulations to be amended;
  - e. specify the proposed use or change;
  - f. list the reasons justifying the petition;
  - g. list the names and mailing addresses of all owners or occupants of land within two thousand (2,000) feet of any land whose district or use will be changed, if the petition for action were taken; and
  - h. be accompanied by a fee (included in the Town's Fees and Penalties Ordinance) to cover the cost of a hearing.
3. The Plan Commission shall hold a public hearing, after due notice to interested parties, and issue its report to the Town Board, including a finding of facts and recommendation, signed by each Commissioner in agreement with the findings and recommendation, with regard to the action requested by the petition. Members of the Plan Commission may issue individual concurring or dissenting reports.
  4. The Town Board may adopt the majority (or any concurring) report of the Plan Commission, or hold its own hearing, after which it may adopt any dissenting report of the Plan Commission, or grant or deny the petition, in whole or in part.

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

1. Permits for land use changes or construction shall expire twelve (12) months from the date of issuance, where no action has been taken to accomplish such changes or commence building activity.
2. Permits for exterior construction expire twenty-four (24) months after issuance. (Work must be completed within twenty-four (24) months.)
3. Permits for interior construction expire thirty (30) months after issuance. (Work must be completed within thirty (30) months.)

**Section M.      ENFORCEMENT AND PENALTIES**

1. INTRODUCTION AND EXPLANATION.  
This section provides for enforcement and penalties for violations of this ordinance. The Town may initiate court action to enforce the ordinance. The result of such enforcement can be a court injunction or forfeitures.
2. DECLARATION OF UNLAWFUL CONDUCT, ACTIVITIES AND CONDITION.
  - a. Violation of Land Use Provisions.
    - (1) No building or structure shall be erected, constructed, placed, moved or structurally altered nor any use of land, premises, building or structure established or changed in violation of the provisions of this chapter.

- (2) No person shall fail to comply with any standard of this chapter or with any condition or qualification placed upon the issuance of a permit, approval or variance granted in due course under this ordinance.
3. IDENTIFICATION AND LIABILITY OF PARTIES.
  - a. Owners of lands or properties, occupants of land or premises and agents of owners or occupants including, without limitation because of enumeration, building contractors, surveyors, plumbers, installers, soil technicians, road builders, grading and excavation contractors and their agents and lending institutions and insurer and their agents are responsible for compliance with all provisions of this chapter which bear upon their area of competency and responsibility.
  - b. Any person who violates or aids or abets in a violation of this chapter shall be liable to prosecution or remedial action.
  - c. This ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activates unless specifically exempted by State or Federal law.
4. INVESTIGATION OF COMPLIANCE, NOTICE OF VIOLATIONS.
  - a. The Zoning Administrator is responsible for inspecting and investigating compliance of land use activates with the terms of this ordinance.
  - b. If upon such inspection or investigation the Zoning Administrator becomes aware of a condition, which he/she concludes is or is likely to become a violation as defined in sub. 2. above, he/she shall immediately notify the parties he/she deems to be responsible and potentially liable pursuant to sub. 3. above, of the detected violation. Such notice shall include:
    - (1) A demand that the condition that is alleged to constitute the present or potential violation be halted, prevent from occurring or remedied; or
    - (2) A statement that a complaint on the condition and demand for prosecution has been or will be transmitted to the District Attorney or enforcement officials, State agencies or both.
  - c. If an enforcement demand is issued under paragraph b. (1) above and is not complied with, the Zoning Administrator shall immediately file a complaint and demand for prosecution under paragraph b.(2) above, unless an administrative appeal has been commenced and a stay order has been issued pursuant to Section H.4.b. of this chapter.
5. PROSECUTION; INJUNCTIONS AND PENALTIES IN COURT PROCEEDINGS.
  - a. The Town Attorney shall expeditiously prosecute all violations of this chapter reported by the Zoning Administrator.
  - b. Nothing in this section shall be deemed to prevent private prosecution of violations pursuant to Wisconsin Statutes 62.23(F) or common law.
  - c. For violation specified in sub. (1), a forfeiture as prescribed in the Town's Schedule of Fees and Penalties Ordinance, in force at the time of the violation, shall be imposed upon conviction or adjudication, plus the cost of prosecution for each violation if so ordered by the court.
  - d. Each day a violation exists or continues shall constitute a separate offence.
  - e. As a substitute for or an addition to forfeiture actions, the Town Attorney may, on behalf of the Town, seek enforcement of any and all parts of this chapter by court actions seeking injunction orders or restraining orders.

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

## **CHAPTER II: DEFINITIONS**

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

**Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, use, owner, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.

**Accessory Building.** A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building.

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

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

**Area of Copy.** The entire area within a single, continuous perimeter composed of squares or rectangles which encloses the extreme limits of advertising message, announcement, or decoration of a wall sign.

**Area of Sign.** The area of the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregularly shaped sign area shall be computed using the actual sign-face surface. In the case of wall signs, the area of copy will be used.

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

**Billboard.** See “Off-Premise Signs.”

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

**Boarding House.** A building other than a hotel where meals or lodging and meals are furnished for compensation for three (3) or more persons not members of a family, not open to transients, in contradistinction to hotels and restaurants.

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

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

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

**Changeable Message Sign.** A sign such as a electric controlled time and temperature sign, message center or reader board where copy changes.

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

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

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

**Commission.** The Town of St. Croix Falls, Polk County, Wisconsin, Plan Commission.

**Connecting Streets.** Streets of cities, townships and villages that connect state trunk highways as defined in Sec. 84.92(11), Wisconsin Statutes.

**Conservancy District.** The Conservancy district is intended to preserve scenic and natural areas in the Township of St. Croix Falls and to prevent uncontrolled, uneconomical spread of residential development, and to help discourage intensive development of marginal lands so as to prevent potential hazards to public and private property.

**Copy Area.** The geometric area in square feet that encloses the actual copy of the sign.

**Dependant Mobile Home.** A mobile home that does not have complete bathroom facilities.

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

**Directional Sign.** Any sign which serves to designate the location or direction of any place or area. This includes, but is not limited to, such signs as those identifying rest rooms, telephone, parking areas, entrance and exits.

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

**Double Wide.** A home usually constructed like mobile homes with a hitch and undercarriage for transporting. The separate units are joined together at the site.

**Drainage System.** One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

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

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

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

**Electric Sign.** Any sign containing internal electrical wiring which is attached or intended to be attached to an electrical energy source.

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

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

**Fence.** Adequate fencing shall be determined by its use for:  
**Screening:** Shall be solid six (6) feet or more in height.

**Finished Room.** A room created by covering the walls and ceiling with plaster, dry wall, paneling or other similar building material, so as to block from view the structural members of the wall and ceiling; trimming the doors, windows and built-in cabinets with molding; and preserving the walls and trim with paint, varnish or other similar material.

**Flashing Sign.** Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source, not including changeable message signs.

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

**Garage, Private.** An accessory building or space for storage only of not more than four (4) private motor driven vehicles.

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

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

**Ground Sign.** A sign erected on one or more freestanding supports or uprights and not attached to any buildings.

**Gross Area.** The area of a sign is determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letter or symbols, the rules of “Area of Copy” apply.

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

**Height of Building.** See “Building, Height of” in this Chapter. See also: Chapter III Section B.6, for exceptions.

**Height of Sign.** The vertical distance measured from the grade at the street-right-of-way line where the sign is located to the highest point of such sign.

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

**Home Occupation, Major.** A major home occupation is a home occupation that is authorized in Chapter III of this ordinance, as a special exception by the Plan Commission of the Town of St. Croix Falls.

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

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

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

**Illuminated Sign.** A sign that is lighted by an artificial light source either directed upon it or illuminated from an interior source.

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

**Integrated Shopping Center.** A shopping center in single ownership or under unified control, and containing three (3) or more separate businesses.

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

**Legal Nonconforming Sign.** A nonconforming sign that met regulations when it was originally installed.

**Licensee.** Any person licensed to operate and maintain a mobile home park, under this ordinance, or any other commercial enterprise.

**Licensing Authority.** The Town of St. Croix Falls.

**Living Space.** That portion of a dwelling occupied by the residence for normal daily living functions, to include, but not limited to, all space on the main level of a dwelling, any upper level rooms that have been finished for daily use, and any lower level rooms that have been finished for daily use, but no including any room used for a furnace, water heater or similar mechanical device, unless they occupy a minor portion of such room and the remainder of the room has been finished for daily use.

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

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

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

**Lot Width.** For the purpose of this ordinance, the width of a lot shall be the average distance between the side lot line and the setback line.

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

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

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

**Mobile Storage Containers** A portable storage unit which includes but is not limited to: cargo containers and shipping containers. Mobile homes, manufactured homes, recreational vehicles, truck boxes, truck trailers and train cars shall not be used as mobile storage containers.

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

**Non-Dependent Mobile Home.** A mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year-round facilities.

**Non-Conforming Sign.** A sign that does not meet code regulations.

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

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

**Off-Premise Sign.** A sign which advertises goods, products, facilities or services not necessarily on the premises where the sign is located, or directs persons to a different location from where the sign is located.

**On-Premise Sign.** Any sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.

**Parking Lot.** A lot where automobiles are parked or stored temporarily but not including the wrecking of automobiles or other vehicles or storage for the propose of repair or wrecking.

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

**Portable Sign.** Any sign not permanently attached to the ground or a building.

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

**Pre-Cut Home.** A home built on the site, however, all the studs, joists and rafters are pre-cut at a mill or factory.

**Prefab, Prefabricated or Panelized Home.** A type of home which is built in sections at the factory. These sections are insulated, plumbed and wired at the factory, and trucked to the site and assembled.

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

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

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

**Roadside Stand.** Roadside stands, selling only produce from the parcel and operated by the family only with sign advertising only projects produced on the farm.

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

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

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

**Sign Contractor.** Any person, partnership or corporation engaged in whole or in part in the erection or maintenance of signs, excluding the business that the sign advertises.

**Sign Structure.** Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers.

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

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

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

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

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

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

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

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

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

**Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

**Temporary Structure.** A moveable structure not designed for human occupancy which may be used for the protection of goods or chattels.

**Transition District.** An area within which agriculture uses, limited commercial, residential and institutional residential uses may be located.

**Unit.** A mobile home unit.

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

**Wall Sign.** A sign attached to the wall of a building with the face in a parallel plane to the plane of the building wall. This includes signs painted directly on a wall.

**Window Sign.** A sign affixed to, in contact with, painted upon, or placed within a window for the purpose of viewing from outside the premises; such sign must be placed only on the interior on any window unless painted directly upon it. This does not include merchandise located in a window.

**Yard.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

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

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

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

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

## **CHAPTER III: GENERAL ZONING**

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

1. This chapter contains the general zoning provisions and indicates what uses may be made of property, the permissible lot size, height of buildings and dimensions of required yards and open space. It divides the area to which it applies into six (6) districts. Each district has its own set of rules on use, yard space, lot size and building height.
2. The locations of the six (6) districts are shown on the official town zoning maps available in the Zoning Administrator's office, the Town Clerk's office and the Town Hall.
3. Within most districts there are listed "permitted uses" and "special exceptions." Permitted uses are uses which are allowed in that district provided that the property owner obtains a permit by showing that the proposed use is listed as a permitted use. Special exceptions are uses that are allowed only after the Planning Commission reviews the proposed use, holds a public hearing and decides whether to approve, based upon the application of standards found in this ordinance.
4. The fact that a use is shown as a permitted use does not always mean that the project may proceed. The County Sanitary or Shoreline Ordinances, the Subdivision Ordinance (5), or other sections of this ordinance may result in a permitted use not being allowed to proceed, depending upon the manner in which those provisions apply.

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

1. No part of a yard or other open space provided about any buildings for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
2. Every dwelling erected in the town shall provide a minimum four hundred (400) square feet. The square footage to be measured using the area of the first floor and all additional floors. The basement can be included if it has an entrance directly accessible to the outside, or least one (1) window that is not over four (4) feet above the basement floor. Every Principal Commercial Structure erected in the town shall be a minimum eight hundred (800) square feet.
3. When a lot has an area less than the minimum number of square feet per family, as required for the district in which it is located, and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family subject to the setback, rear yard and side yard requirements for the district.

4. The regulations contained throughout this chapter relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:
  - a. Church, schools and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet or five (5) stories, provided the front, side and rear yards required in the district in which such a building or structure is to be located are each increased at least one foot for each additional foot of height above the height limit otherwise established for the district.
  - b. Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, microwave radio relay or broadcasting towers, masts or aerials, farm silos, barns and other farm structures and necessary mechanical appurtenance are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the town, County, or of other jurisdictions such as the Federal Aviation Administration.
  - c. Facilities subject to paragraph a. and b. above require a zoning permit to be issued by the Zoning Administrator. Before issuing the permit, the Zoning Administrator shall investigate and determine whether any such facility, which is to exceed 35 feet in height above ground level, will create or may create fire protection problems.
  - d. Upon a written determination that such problems may result, the request for a permit shall be referred by the Administrator to the Plan Commission, which shall invite fire or other public safety officials to appear and offer recommendations. The Commission may attach such conditions, as it deems reasonable and necessary based upon advice of fire and public safety officials to the granting of the permit.
5. Lot sizes, permitted and special exception uses, and other regulations regarding open space developments are contained in Chapter IX of this Ordinance.

### **Section C. DISTRICTS**

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

1. **RESIDENTIAL DISTRICT.**

The Residential District is created to establish and protect the essential characteristics of areas within which predominantly low density residential use should occur, along with certain community and recreational uses to serve the residents of the district. Multiple family residential uses shall be allowed as special exception uses where permitted by the Planning Commission upon application of standards intended to protect the public interest. The Residential District shall be divided into R-1 and R-2 sub-districts.

  - a. Permitted Uses.
    - (1) Single family dwellings.
    - (2) Churches, public and private schools.
    - (3) Renting a single family dwelling to a single family unit, provided there is a lease agreement of a minimum of seven (7) days in length.
    - (4) Public buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of roads building maintenance equipment.

- (5) Accessory buildings, including private garages and buildings clearly incidental to the residential use of property, except that no accessory building may be used as a separate dwelling unit.
  - (6) Gardening and nurseries for propagation of plants and trees.
  - (7) Swimming pools, above or below ground.
  - (8) Public parks and playgrounds, including swimming pools with proper fencing, golf courses, tennis courts and picnic grounds. Such uses shall contain sufficient yard area to provide a buffer space and adequate parking facilities according to the following guidelines:
    - (a) No yard shall be less than twenty-five (25) feet wide, except that no yard need be provided adjacent to the fairways and greens of golf courses.
    - (b) Each yard shall be increased for the following:
      - [1] Swimming pools larger than forty (40) feet by sixty (60) feet, one (1) foot additional yard for each two (2) feet of width or length of the pool in the direction of the additional width or length.
      - [2] Picnic grounds having seating arrangements for more than forty (40) persons, ten (10) feet of additional width on every yard for each additional ten (10) persons or fraction thereof which such picnic ground is designated for or equipped to accommodate.
      - [3] Any such yard which abuts on a public street or highway may be reduced by  $\frac{1}{2}$  the width of such street or highway, but in no case to less than fifteen (15) feet.
      - [4] Each such yard be left in its natural condition and the natural vegetation of the area, including grasses, flowers, shrubs and trees, except no noxious plants, trees, or weeds shall be allowed to grow and develop, or other vegetation of equivalent density shall be planted therein, so as to provide a natural screen between the park or playground and neighboring residential areas, and so that such yards be, so far as possible, unused and unusable for the general purposes of such parks and playgrounds.
      - [5] The above regulations shall be mandatory as applied to any park or playground established by an agency within the Town of St. Croix Falls.
  - (9) Telephone, telegraph and power distribution poles, lines and necessary appurtenance equipment and structures, such as transformers, unit substations and related equipment housing, but no service garage or storage yards.
  - (10) Minor Home Occupations listed in Section D of this Chapter.
- b. General Requirements.
- (1) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard and the ordinary projection of sills, belt courses, cornices and ornamental features projecting not more than twenty (20) inches.
  - (2) Accessory buildings which are not part of the main building shall not occupy more than 30% of the area of the required rear yard and shall not be more than twenty-five (25) feet in height, not to exceed the height of the primary residence.
- c. Minimum Lot Area.
- (1) Sewered Lots: Buildings or other parts of buildings hereafter erected or structurally altered for single or two (2) family dwelling purposes shall

provide a lot area of not less than twenty thousand (20,000) square feet, minimum width shall be one hundred (100) feet. The proportion of depth in relation to width for such a lot shall be in excess of three to one (3:1), depth to width.

(2) Unsewered Lots:

(a) R-1 – The same regulations shall apply as in sub-section b. (1) except that the minimum lot area shall be two (2) acres and the minimum lot width shall be two hundred (200) feet.

(b) R-2 – The same regulation shall apply as in sub-section b. (1) except that the minimum lot area shall be thirty thousand (30,000) square feet and the minimum lot width shall be one hundred (100) feet.

d. Height.

(1) No building shall be more than two and one half (2 ½) stories or thirty five (35) feet in height, whichever is greater.

(2) Residential buildings may be increased in height by not more than ten (10) feet or one (1) story when all yards and other required open spaces are increased in width by one (1) foot for each foot in height by which such buildings exceeds the normal height limit of the district.

e. Side Yard.

(1) There shall be a side yard on each side of a building. The aggregate width of the side yards for the main building shall not be less than twenty-five (25) feet and no single side yard shall be less than ten (10) feet wide. The highway setback regulations in Chapter 9 shall apply to all corner lots.

(2) The minimum permitted side yard for an accessory building in a residence district shall be ten (10) feet, provided it is detached from the main building. When an accessory building is attached or connected to the main building, they shall be considered to be as one and the conditions in paragraph (1) above shall rule.

(3) For lots less than eighty (80) feet wide and of record as such at the date of the passage of this chapter, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and no single side yard shall be less than forty (40) percent of the aggregate width. The buildable width of any lot shall not be reduced to less than twenty four (24) feet.

f. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet in depth for any main building. Accessory buildings shall be provided with a minimum rear yard of not less than ten (10) feet.

g. Special Exceptions. The following uses may be allowed as a special exception upon the approval by the Plan Commission as provided in Chapter I.

(1) Oversized accessory buildings.

(2) Microwave relay structures, communication towers, electric power transformers.

(3) Renting any property, or portion of any property, as transient lodging. In this section, transient means any person residing for a continuous period of less than seven (7) days in a hotel, motel or other furnished accommodations available to the public. Hotel and motel are defined in WI State Statute 77.52(2) (a) 1 effective April 20, 2009.

(4) Multiple family dwellings or two (2) or more units shall be subject to the provisions of Chapter I. An additional three thousand (3,000) square feet of minimum lot area shall be required for each dwelling unit in excess of

two (2). To grant a special exception for multiple family use, the Plan Commission shall find that the following conditions are present:

- (a) The establishment of the use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - (b) The use, value and enjoyment of other property in the neighborhood shall be in no foreseeable manner substantially impaired or diminished by the establishment of the use.
  - (c) The establishment of the use will not impede the normal and orderly development of the surrounding property for the uses permitted in the district.
  - (d) Adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided.
  - (e) Adequate measures have been or will be taken to provide ingress and egress to desired as to minimize traffic congestion in the public streets.
  - (f) All current state building codes and requirements.
  - (g) A minimum of two (2) dust free parking spaces, off-road, shall be provided for each unit.
- (5) Professional office, provided that:
- (a) Such office is conducted solely by a member of the resident family entirely within the residence and incidental to the residential use of the premises.
  - (b) There shall be no external alterations that would affect a substantial change in the residential character of the building.
  - (c) Not more than fifty (50%) percent of only one floor of the dwelling shall be devoted to such offices.
  - (d) Not more than one (1) person not members of the resident family may be employed in non-professional capacities in any such office.
- h. Residential Sub-Districts.
- (1) R-1 shall include all land in the Residential District not included in R-2.
  - (2) R-2 shall include all land in the Residential District that is also subject to County Shoreland and Flood Plain Zoning.
    - (a) All lots in the R-2 sub-district, that were created, of record and were considered in conformity with the County Shoreland and Floodplain Zoning prior to the effective date of this ordinance are considered to be legal, conforming and buildable lots for the purpose of this ordinance.

## 2. AGRICULTURAL DISTRICT.

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

It is the intent that this sub-section's description and provisions will, after certification by the Land and Water Conservation Board of the Wisconsin Department of Agriculture, allow land in this district to qualify it for enhanced benefits under the Wisconsin Farmland Preservation Law. Such certification has not been obtained as of the time of publication of this ordinance. Until such certification, the full benefits of that law can not be realized by landowners under that program.

When certification has been obtained, this sub-section will be amended to reflect that certification and the district renamed the Exclusive Agriculture District.

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

- a. Lands. The agricultural district shall include, a minimum lot size of thirty-five (35) acres of land in productive agricultural operations including the following:
  - (1) Prime agricultural land.
  - (2) Lands productive for dairy, livestock raising and grazing.
  - (3) Other lands integral to agricultural operations.
  - (4) Lands productive for specialty crops.
  - (5) Lands productive through economically feasible improvements.
- b. Buildings.
  - (1) No building shall be more than thirty-five (35) feet in height or two and a half (2 ½) stories, whichever is greater.
- c. Rear Yard.
  - (1) There shall be a rear yard of not less than twenty-five (25) feet in depth for any main building. Accessory buildings shall be provided with a minimum rear yard of not less than ten (10) feet.
- d. Side Yard.
  - (1) In lots one hundred (100) feet or more in width, the aggregate width of the side yards for the main building shall not be less than twenty-five (25) feet and no single side yard shall be less than ten (10) feet wide.
  - (2) In lots less than one hundred (100) feet wide and of record as such at the date of the passage of this section, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and no single side yard shall be less than forty (40%) percent of the aggregate width. The buildable width of any lot shall not be reduced to less than twenty-four (24) feet.
  - (3) The minimum permitted side yard for an accessory building in the Agricultural District shall be ten (10) feet, provided it is detached from the main building. When an accessory building is attached or connected to the main building, they shall be considered to be as one and the provision of paragraph (1) above shall rule.
- e. Permitted Uses. The Agricultural District shall include permitted uses as follows, except that a minimum lot size of five (5) acres is required for any permitted use involving the raising or maintaining of farm animals other than chickens, ducks, or turkeys. Chickens (excluding roosters), ducks, and turkeys up to .25 total animal units are permitted on parcels less than five (5) acres.
  - (1) Beekeeping.
  - (2) Dairying – where operations involve fewer than twenty (20) animal units, except that one (1) animal unit may be kept for each contiguous acre available for grazing and feed production, up to two hundred (200) animal units.
  - (3) Floriculture.
  - (4) Grazing.
  - (5) Livestock raising – where operations involve fewer than twenty (20) animal units, except that one (1) animal unit may be kept for each

- contiguous acre available for grazing and feed production, up to two hundred (200) animal units.
- (6) Feedlots where operation involves fewer than, up to one hundred (100) animal units.
  - (7) Poultry raising where the operation involves fewer than five thousand (5,000) birds or one (1) animal unit per acre, whichever is less.
  - (8) Plant nurseries and orchards.
  - (9) Raising grain, grass, mint, ginseng and seed crops.
  - (10) Raising trees, fruit, nuts, and berries.
  - (11) Sod raising.
  - (12) Vegetable raising.
  - (13) Viticulture.
  - (14) Forest and game management.
  - (15) Nature trails and walks.
  - (16) Greenhouses.
  - (17) Roadside stands, selling only produce from the parcel and operated by the family only with signs advertising only products produced on the farm.
  - (18) One (1) residence occupied by one (1) or more persons, or families, earning a substantial livelihood from the farm operation, except that existing dwellings and related structures, which remain after farm consolidation, on a minimum of five (5) acres are permitted.
  - (19) Minor Home Occupations, per Section D of this chapter.
  - (20) Swimming pools, above or below ground.
  - (21) Combined feedlot, dairying and livestock raising herds of up to four hundred (400) animal units, with on (1) contiguous acre available for grazing, feed production and waste disposal for each animal unit in the combined herd.
- f. Special Exceptions.
- (1) Campground
  - (2) Cemetery
  - (3) Child Care Facility
  - (4) Churches
  - (5) Commercial Stables
  - (6) Concrete or hot mix plants engaged in public highway related projects provided that such operations are of a temporary nature not exceeding one hundred-twenty (120) days.
  - (7) Event Center
  - (8) Feedlot, dairying, and livestock raising of herds over four hundred (400) animal units, with one contiguous acre available for grazing, feed production, and waste disposal for each animal unit in the combined herd.
  - (9) Feed Mill
  - (10) Governmental uses such as police or fire stations, town halls, highway storage garages, solid waste disposal and sewage treatment plants, schools, public parks and campgrounds, public recreational use, or airports or landing strips.
  - (11) Health Care Facility
  - (12) Implement Dealer
  - (13) Kennels, when located not less than three hundred (300) feet from any lot line shared with premises devoted to residential use, nor closer than one thousand (1,000) feet from any residential building other than that of the owner of the kennel, his agent or employee.

- (14) Licensed game management as set forth in Chapter 29 of Wisconsin State Statutes.
- (15) Mini Storage. A series of bays, no wider than twenty (20) feet, no longer than forty (40) feet, connected to each other with common walls and separated overhead doors with no utilities. No commercial or retail uses other than the original lease of space is permitted. The retail sale of storage, packing and moving supplies by the owner/operator of the mini storage facility is permitted in the facility office area.
- (16) Non Metallic mining subject to Chapter I.I.10
- (17) One additional single family dwelling when occupied by persons earning a substantial livelihood from the single entity owned farm operation.
- (18) Racetrack; provided however, no racetracks will be permitted on any parcel unless a racetrack was previously located on that parcel.
- (19) Renting any property, or portion of any property, as a transient lodging. In this section, transient means any person residing for a continuous period of less than seven (7) days in a hotel, motel, or other furnished accommodations available to the public.
- (20) Restaurants, wineries, taverns, brew pubs, or similar establishments.
- (21) Utility installations.

3. COMMERCIAL DISTRICT.

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

- a. All new commercial development and commercial development involving a structural alteration, addition, or repair to a structure that exceeds fifty (50%) percent of the equalized assessed value of the structure over the lifetime of the structure and those that include a significant change of use except when the change of use is in an existing structure, shall be subject to the Town Commercial Design Guidelines including site plan review and shall not be allowed unless approved by the Plan Commission and by the Town Board.

Development involving aggregate structure area includes any additions plus an existing structure. The value of alterations, additions and repair work shall include the value of all labor and materials.

A significant change of use is any change of use to a use that is not a permitted use.

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

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

- (1) Automotive accessory stores, including service, tires and automotive parts.
- (2) Bakeries.
- (3) Barber or beauty shops.
- (4) Banks and financial institutions.
- (5) Book and stationery stores.
- (6) Cabinet/fixture assembly shop with retail showroom.
- (7) Camera and photographic shops
- (8) Clothing and dry goods stores.
- (9) Coin operated laundry establishments.
- (10) Drugstores and pharmacies.
- (11) Electrical, household appliance, radio, television and computer sales and services.
- (12) Equipment rental.
- (13) Fabric stores.
- (14) Farm implement, machinery, and services.
- (15) Florist shops.
- (16) Food and convenience shops.
- (17) Furniture and flooring stores.
- (18) Gift and boutiques.
- (19) Gasoline stations primarily used by residents and the traveling public operating automobiles as defined in Section 340.01 (4) of the Wisconsin Statutes.
- (20) Greenhouse when the primary use is the direct selling of retail goods and items to the public.
- (21) Hardware, home improvement, and paint stores.
- (22) Hotels and motels.
- (23) Indoor roller rinks, indoor ice skating rinks and bowling alleys.
- (24) Interior decorating stores and shops.
- (25) Grocery stores and supermarkets.
- (26) Jewelry stores.
- (27) Health and athletic clubs, including such uses as tennis, racquetball, basketball, swimming, running tracks and exercise rooms.
- (28) Libraries and museums.
- (29) Liquor stores which are for off-sale only.
- (30) Marine sales and service
- (31) Medical and dental facilities and medical supply stores.
- (32) Municipal buildings.
- (33) Museum
- (34) Music stores.
- (35) Office equipment and office supply stores.
- (36) Offices, including both business and professional.
- (37) Optical and eyewear stores.
- (38) Pet shops.
- (39) Photo and art galleries.
- (40) Picture framing and picture stores.
- (41) Restaurants and eating establishments and those having an on-sale liquor license.
- (42) Shoe stores and shoe repair.
- (43) Sporting goods and athletic shops/Indoor gun range or archery range.

- (44) Theaters, excluding outdoor or drive-in facilities.
- (45) Travel agencies.
- (46) Veterinarian clinics.
- c. Special Exceptions. The following are Special Exceptions to which Chapter 1, Section I shall apply.
  - (1) Permitted uses with aggregate structure area over 10,000 square feet.
  - (2) Changes of use in a non-conforming structure or property. This provision shall not apply if the principal structure involved is legal non-conforming due to the required setback from a highway right of way, as long as the structure meets the setback from the centerline of the road.
  - (3) Selling merchandise that is primarily second hand, used, or consignment.
  - (4) Antique store.
  - (5) Brewery/Brew pub/Winery
  - (6) Car washes
  - (7) Non residential day care
  - (8) Feed mill
  - (9) Fireworks stand
  - (10) Funeral home
  - (11) Heliport
  - (12) Laundromat
  - (13) Light manufacturing/distribution/and warehousing.
  - (14) Mini Storage. A series of bays, no wider than twenty (20) feet, no longer than forty (40) feet, connected to each other with common walls and separated overhead doors with no utilities. No commercial or retail uses other than the original lease of space is permitted. The retail sale of storage, packing and moving supplies by the owner/operator of the mini storage facility is permitted in the facility office area.
  - (15) Motel/hotel
  - (16) Outdoor Storage facility
  - (17) Ski resort
  - (18) Small engine repair
  - (19) Tattoo shop
  - (20) Truck stop

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

Supplemental design and improvements standards for commercial special exception:

- (a) Minimum road right-of-way shall be sixty-six (66) feet unless the right-of-way pre-exists adoption of this ordinance. In this case, the Plan Commission and the Town Board, in its discretion, may authorize a reduced minimum right-of-way based on the criteria listed in (j) below.
- (b) Minimum pavement width shall be twenty-four (24) feet.
- (c) Minimum turn radiuses shall be sufficient to handle the size of vehicles likely to use the site.

- (d) All utilities, including electric, cable television, telephone, gas, water and storm and sanitary sewers, except electric power lines exceeding 1,200 volts, shall be underground.
  - (e) Special exception use review shall include specification of plantings and landscape area. In design, every effort should be made to protect and retain existing trees, shrubbery and grasses not actually located in rights-of-ways, drainage ways, vision triangles, and the like. Trees should be required in road setback areas, particularly where the development is immediately adjacent to a residential area. A minimum of at least fifteen (15) percent of the area within the property lines of each lot shall be devoted to landscape purposes.
  - (f) Any commercial lot that abuts or is across from a residential area shall have perimeter landscape screening that will substantially screen parking areas and headlights from vehicles.
  - (g) The Plan Commission and the Town Board may require deed restriction for architectural control and appearance consistent with the Town Commercial Design Guidelines.
  - (h) All roads, walk, driveways, parking lots and loading areas shall be paved meeting design approved by the Town Board.
  - (i) The Plan Commission and the Town Board may require cross easements where commercial lots are side-by-side to allow linking of parking areas.
  - (j) Road standards for commercial development may be increased by the Plan Commission and the Town Board. An increase of these standards will be on relevant information such as town plan, driveway widths, speed limit, number and types of vehicles using the road parking availability, sound engineering judgment, and other pertinent information.
- d. Lot Size, Yard and Building Requirements.
- (1) A minimum lot frontage of one hundred fifty (150) feet.
  - (2) A minimum lot area of one (1) acre.
  - (3) Front Yard.
    - (a) The minimum front yard distance from the building or structure to the front lot line shall be according to the setback required by Chapter IV for the class of roadway it abuts.
    - (b) The setback requirement for lots abutting a Class B Highway shall also be required within five hundred (500) feet of the intersection of a Class B Highway and any other Highway. The five hundred (500) feet shall be measured along the right-of-way of any Highway that intersects a Class B Highway.
    - (c) Any lots abutting an Officially Mapped road shall have a setback of a Class D Highway according to Chapter IV of the Town Zoning Ordinance. This requirement is effective once the road is constructed.
  - (4) Side Yard.
    - (a) Minimum of twenty (20) feet.
    - (b) If building or abutting lots are not constructed with a common wall or with walls contiguous to one another, a side yard of not less than twenty (20) feet shall be provided. Where no side yard is required, an alternative access to the rear yard must be provided.
    - (c) There shall be a side yard of not less than fifty (50) feet along side of any lots in the Commercial District which abuts the side lot line of a lot in a

Residential or Transition District and is not separated there from by a street or alley.

(5) Rear Yard.

- (a) There shall be a rear yard of not less than twenty (20) feet in depth.
- (b) There shall be a rear yard of not less than twenty-five (25) feet on any lot in the Commercial District which abuts the lot line of a lot in a Residential District.
- (6) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard.
- (7) Height. There shall be a maximum building height of thirty-five (35) feet. There shall be a maximum of two and one-half (2 ½) stories.

e. Off-Street Parking.

- (1) Provisions must be provided for off-street parking and loading for every commercial use in accordance with Chapter VI, Off-Street Parking.
- (2) Parking is permitted between the right of way and the setback lines.
- (3) Paving and striping of roads, walk, driveways, parking lots and loading areas is encouraged but may be required pending design approval by the Town Board and in accordance with Chapter VI, Off-Street Parking.

f. Access to Class B Highway.

- (1) Existing Use. There shall be no more than two (2) points of ingress or egress from Class B or Class C highways to a service road servicing the Commercial District.
- (2) Future Development. Property adjacent to Class B highways shall be in accordance with “limited access” as provided for in Chapter IV of this ordinance.

g. Outdoor Display. Outdoor displays may not impair visibility so as to block the view from the highway of adjoining businesses. Outdoor display may not be located closer to the highway than the right-of-way.

h. Outdoor Storage. With the exception of merchandise on display, for the purpose of sale, no merchandise may be stored on the premises except in an enclosed building. Crates, tarps, tents or temporary sheds and lean-tos are inadequate enclosure except as temporary measures for a period of ten (10) days or less per month.

i. Town Commercial Design Guidelines.

Town Commercial Design guidelines shall be applied to all new commercial development and commercial development involving a structural alteration, addition, or repair to a structure that exceeds fifty (50%) percent of the equalized assessed value of the structure over the lifetime of the structure and those that include a significant change of use, except when the change of use is in an existing structure. The Town Zoning Administrator shall have the ability to administer the Town Commercial Design Guidelines for permitted uses. In cases where the Town Commercial Guidelines are either impractical or not feasible to implement due to the proposed use, the applicant may ask for a waiver from the Town Board, after a recommendation from the Town Plan Commission. Potential cost is not a factor the Town will consider.

j. Minimum Improvements

Change of permitted use in existing buildings deemed to not be in compliance with the off-street parking section of this Ordinance, shall be required to make improvements to meet that section.

Change of permitted use in existing buildings shall also be required to correct any exterior lighting that does not meet the standards of Section VI, 2, f. of the Commercial Design Guidelines.

- k. Concept and Site Plan Review and Procedure. The procedure for concept, preliminary and final site plan review shall occur as follows:
  - (1) Meet with the Zoning Administrator to review requirements and the concept plan.
  - (2) The Zoning Administrator, applicant, and owner if not the same shall present the plan to the Plan Commission for concept review and comment.
  - (3) Submit a complete application and site plan by applicant and owner if not the same.
  - (4) The Plan Commission will hold a public hearing for site plan review.
    - (a) The Plan Commission may recommend approval.
    - (b) The Plan Commission may recommend denial of the site plan and provide the applicant findings of fact of why the site plan was rejected.
    - (c) The Plan Commission may table the action and request additional information and/or changes.
  - (5) Town Board approval is required for the site plan.
  - (6) The applicant must take action on the approved application within one (1) year of approval by the Town Board and hold a certificate of occupancy within two (2) years of holding a building permit or the application is null and void.
- l. Financial Guarantee. A cash escrow deposit shall accompany any site plan application. The cash escrow deposit shall cover all cost associated with the site plan review as estimated by the Zoning Administrator. The applicant shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's project.
  - (1) "Materials" shall include, but not limited to, maps, graphs, charts, reports, drawing, etc., and all printing or reproduction of same.
  - (2) "Staff and/or consulting time" shall include any time spent in researching for, presenting, information, or actual production of materials.
  - (3) The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials.

#### 4. INDUSTRIAL DISTRICT.

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

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

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

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

a. Permitted Uses.

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

b. Special Exceptions.

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

site for the manufacturing, compounding, processing, packaging and/or assembly of products and materials; such equipment may only be stored on-site if actively being used.

- (11) Non-metallic mining (other than Industrial Sand Mining).
- (12) Printing and publishing houses and related activities.
- (13) Rescue and towing service, excluding salvage yards, and providing that no vehicle shall remain on the premises in excess of 90 days. The number of vehicles is subject to the Special Exception. All vehicles shall be screened as to not be visible from adjacent lots.
- (14) Sale of new utility, recreational, camper and agricultural trailers and pick-up truck accessories to accommodate 5th wheels.
- (15) School bus garage facilities.
- (16) Scientific research, investigation, nonhazardous testing or experimentation
- (17) Warehousing of perishable or nonperishable products, provided that the products are owned by or consigned to the owner of the principal use or a lessee, and further provided that said owner or lessee does not establish such principal use in the capacity of a carrier for the purpose of a freight operation or terminal for trucking operations.
- (18) Welding shops.
- (19) Machine shops.
- (20) Other uses similar in character to the permitted uses, giving due consideration to such items as smoke, noise, dust, noxious or toxic gases and odor, traffic and parking, safety, hours and type of operation, glare, physical appearance, air, water or thermal pollution or any other environmental degradation.
- (21) Industrial Sand Mining.

c. Special Exception Review Procedures

- (a) Any construction or land disturbance activities on slopes of twenty (20%) percent or with the horizontal interval or measurement being twenty-five (25) feet when calculating slope, except conservation practices identified in a currently approved soil and water conservation plan, shall require a special exception permit granted by the Plan Commission.
- (b) Application Requirements. In a case of any industrial application a site plan and facility plan shall be submitted for each new request. Significant changes to any existing industrial use, other than a permitted use, will require Plan Commission and Town Board review as a special exception and will require site plans and facility plans as part of the application.
- (d) Supplemental design and improvement standards for industrial special exceptions:

[1] Minimum road rights-of-way shall be eighty (80) feet unless the right-of-way preexists adoption of this ordinance. In this case, the Plan Commission and the Town Board in its discretion may authorize a reduced minimum right-of-way based on the criteria listed in [10] below.

[2] Minimum pavement width shall be twenty-four (24) feet.

[3] Minimum turn radiuses shall be sufficient to handle the size of vehicles likely to use the site.

[4] All utilities including electric, cable television, telephone, gas, water and storm and sanitary sewers, except electric power lines exceeding 1200 volts shall be underground.

[5] Special exception use reviews shall include specification of planting and landscape areas. In design, every effort should be made to protect and retain existing trees, shrubbery and grasses not actually located in right-of-way drainage ways, vision triangles, and the like. Trees should be protected and preserved during construction. Planting shall be required in road setback areas and in side and rear yard offset areas, particularly where the development is immediately adjacent to a residential area. A minimum of at least fifteen (15%) percent of the area within the property lines of each lot shall be devoted to landscape purposes.

[6] Any industrial lot that abuts or is across from a residential area shall have perimeter landscape screening that will substantially screen parking areas and headlights from vehicles.

[7] The Plan Commission and the Town Board may require deed restrictions for architectural control and appearance consistent with guidelines established by the local community.

[8] All roads, walks, driveways, parking lots and loading areas shall be paved. Roads shall be paved meeting a pavement design approved by the Town Board.

[9] The Plan Commission and the Town Board may require cross easements where industrial lots are side-by-side to allow linking of parking lots.

[10] Road standards for industrial development may be increased by the Plan Commission and the Town Board. An increase of these will be on relevant information such as town plan, driveway widths, speed limits, number and types of vehicles using the road, parking availability sound engineering judgment, and any other pertinent information. The Town Board shall review road plans and submit comments.

d. Lot Size, Height and Yard Requirements.

- (2) The minimum lot size shall be one and a half (1 ½) acres and one hundred fifty (150) feet of road frontage.
- (3) No building shall be more than two and a half (2 ½) stories or thirty five (35) feet high, whichever is greater.
- (4) The side yard, for buildings or parts of buildings erected, moved or structurally altered for industrial use, measured from the building or structure to the lot line, shall be not less than twenty (20) feet, except:
  - (a) If buildings on adjoining lots are constructed with a common wall or with walls contiguous to one another, no side yard is required, provided that an alternative access to the back yard is provided.
  - (b) There should be a side yard of not less than fifty (50) feet along the side of any lot in the industrial district which abuts the side lot line of a lot in a residential district and is not separated there by a street or an alley.
- (4) The minimum front yard distance from the building or structure to the front lot line shall be according to the setback required by Chapter IV for the class of roadway it abuts.
- (5) The minimum rear yard distance from the building or structure to the lot line shall be twenty (20) feet. It shall not be less than fifty (50) feet in depth if:

- (a) Such rear yard abuts a residential or commercial district and such district boundary line does not lie within a street, alley or railroad right-of-way or;
  - (b) Such rear yard is to be used for open storage and will contain stockpiles, storage piles or water; an equipment storage yard, or other accumulations of material or equipment.
- (6) Any property line abutting a residential or commercial district must be suitably screened, with a minimum vegetative screening belt not less than fifteen (15) feet deep and six (6) feet high at the time of planting. All plans for screening of the industrial properties shall first be reviewed by the Town Plan Commission with a recommendation forwarded to the Town Board. The Town Board shall have final approval of the screening for ongoing maintenance, repair and necessary replacement of the screening methods utilized to assure ongoing compliance with the original approval granted by the Town of St. Croix Falls. In addition to screening, fencing may be required by the Town Plan Commission or Town Board depending on property, its use, or the uses of neighboring properties.
- e. Architectural Standards. These architectural standards apply to new construction only. Additions to existing buildings may be constructed of materials similar to those used on the existing building.
- (1) All exterior wall finishes on any building shall be one or any combination of the following materials:
    - (a) Face brick.
    - (b) Natural stone.
    - (c) Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative or textured treatment.
    - (d) Glass.
    - (e) Wood.
    - (f) Hardie plank.
    - (g) Architectural masonry block.
    - (h) Factory fabricated and finished metal framed panel construction shall be permitted if the panel materials on the exterior surface are used with any of the surface materials mentioned above and is not visible on more than twenty-five (25%) percent on an exterior surface.
- f. Other Requirements.
- (1) Provision for parking, for employees, business invitees and the loading and unloading of delivery trucks, must be off-street, in graded and drained lots, on the premises, or abutting the premises, with no more than two (2) driveways accessing the public road so that no vehicle will normally be required to back onto the highway.
- g. Concept and Site Plan Review and Procedure. The procedure for concept, preliminary and final site plan review shall occur as follows:
- (5) Meet with the Zoning Administrator to review requirements and the concept plan.
  - (6) The Zoning Administrator, applicant, and owner if not the same shall present the plan to the Plan Commission for concept review and comment.
  - (7) Submit a complete application and site plan by applicant and owner if not the same.

- (8) The Plan Commission will hold a public hearing for site plan review.
  - (a) The Plan Commission may recommend approval.
  - (b) The Plan Commission may recommend denial of the site plan and provide the applicant findings of fact of why the site plan was rejected.
  - (c) The Plan Commission may table the action and request additional information and/or changes.
- (5) Town Board approval is required for the site plan.
- (6) The applicant must take action on the approved application within one (1) year of approval by the Town Board and hold a certificate of occupancy within two (2) years of holding a building permit or the application is null and void.

5. **TRANSITION DISTRICT**

This district is created to establish areas within which agricultural uses, limited commercial, institutional and residential uses may be located. The Transition District is intended to include areas in which exclusive agriculture use on an area-wide basis is not warranted due to such factors as the existence of mixed uses prior to the date the district was established and located; demonstrated or expected ability of farm and selected non-farm uses to exist in close proximity without undue conflict; or a determination that the area is in a state of transition to urban residential character.

a. Permitted Uses.

- (1) Any permitted use in the Agricultural District, except that a minimum lot size of five (5) acres is required to raise or maintain far animals, and the maximum number of farm animals allowed are one (1) animal unit, per contiguous acre of grazing and feed production. Chickens (excluding roosters), ducks, and turkeys are permitted up to .25 total animal units on parcels less than five (5) acres.
- (2) Single-family residence.
- (3) Swimming pools, above or below ground.
- (4) Minor Home Occupations pursuant to Section D. of this Chapter.

b. Minimum Lot Area. The following provisions shall apply to transitional parcels.

- (1) Sewered Lots: Buildings or other parts of buildings hereafter erected or structurally altered for single or 2 family dwelling purposes shall provide a lot area of not less than one (1) acre. The proportion of depth in relation to width for such a lot shall not be in excess of three to one (3:1), depth to width.
- (2) Unsewered Lots: The same regulations shall apply as in the previous paragraph, except that the minimum lot area shall be three (3) acres.

c. Height and Area. The following provisions shall apply to buildings used for human habitation:

- (1) No building shall be more than two and a half (2 ½) stories or thirty-five (35) feet in height, whichever is greater.

d. Side Yard. The following provision shall apply to transition parcels:

- (1) In sewerred lots the aggregate width of the side yards for the main building shall not be less than twenty-five (25) feet and no single side yard shall be less than ten (10) feet wide.
- (2) In non-sewerred lots less than one hundred (100) feet wide and of record as such at the date of the passage of this section, the aggregate width of the side yards shall be equivalent to three (3) inches for each foot of the lot width and not single side yard shall be less than forty (40%) percent of the

- aggregate width. The buildable width of any lot shall not be reduced to less than twenty-four (24) feet.
- (3) The minimum permitted side yard for an accessory building in the Transition District shall be three (3) feet, provided it is detached from the main building. When an accessory building is attached or connected to the main building, they shall be considered to be as one and the provision of paragraph (1) above shall rule.
- e. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet in depth for any main building. Accessory buildings shall be provided with a minimum rear yard of not less than ten (10) feet.
- f. Special Exceptions. The following uses may be allowed as a special exception upon the approval of the Plan Commission, and after a public hearing:
- (1) Two family dwellings.
  - (2) Drive-in theaters. The Plan Commission will give special consideration to problems of traffic congestion, parking and proximity of residential districts.
  - (3) Campground
  - (4) Correctional institutions, which shall have a two hundred and fifty (250) foot set back from any side or rear lot line.
  - (5) Medical institutions, which shall have a fifty (50) foot set back from any side or rear lot line.
  - (6) Churches, which shall have a fifty (50) foot set back from any side or rear lot line.
  - (7) Commercial building or contractor's storage yard. Any such yard shall be so placed or screened by a planting as not to be visible from any public highway or any residential building other than that of the owner of such yard, his agent or employees.
  - (8) Kennels, when located not less than three hundred (300) feet from any lot line shared with premises devoted to residential use, nor closer than one thousand (1,000) feet from any residential building other than that of the owner of the kennel, his agent or employee.
  - (9) Quarrying or gravel pits,(not including Industrial Sand Mining), when located not less than two hundred (200) feet from any abutting highway right-or-way, nor shall any operational facilities such as buildings, parking lots, storage yards or stock piles be located closer than fifty (50) feet from the setback line, provided that the owner of the premises and the operator shall file an agreement accompanied by a surety bond or other financial guarantee for the restoration, within one year after discontinuing operations, or the site to a condition of practical usefulness and physical attractiveness. Minimum requirements for restoration shall be the elimination of all water holes by filling and the grading and side sloping of any area disturbed by the quarrying operation to the minimum angle of repose of the slope material or a two to one (2:1) slope, whichever is lesser.
  - (10) Licensed game management farms as set forth in Chapter 29 Wisconsin Statutes.
  - (11) Dams, power plants, flowage areas, telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay stations, equipment housings and other similar necessary appurtenant facilities are found to be necessary and to be located as to

avoid unreasonable interference with other uses permitted or existing in the district.

- (12) Bed and breakfast establishment, in compliance with Chapter 50, Section 50 of the Wisconsin Statutes.
- (13) Golf course and driving ranges, including the serving of food and beverages.
- (14) Major Home Occupations pursuant to Section D. of this chapter.
- (15) Mobile Home Park.
- (16) Farm animals on parcels less than five (5) acres in size.
- (17) Licensed Day Care or Child Care facilities.
- (18) Industrial Sand Mining.
- (19) Renting any property, or portion of any property, as transient lodging. In this section, transient means any person residing for a continuous period of less than seven (7) days in a hotel, motel or other furnished accommodations available to the public. Hotel and motel are defined in Wisconsin State Statute 77.52 (2) (a) 1 effective April 20, 2009.

#### 6. CONSERVATION DISTRICT

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

##### a. Permitted Uses.

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

##### b. Permitted Accessory Uses.

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

##### c. Special Exception Uses and Structures.

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

##### d. Lot Area, Setback and Yard.

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

### **Section D. HOME OCCUPATIONS**

1. PURPOSE.

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

2. INTENT.

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

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

3. DEFINITIONS.

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

4. GENERAL STANDARDS.

The following standards shall apply to all home occupations:

- a. The person principally responsible for the home occupation must reside at the location of the proposed home occupation.
- b. All home occupations shall be clearly incidental and secondary to the use of a dwelling or accessory structure for residential or agricultural purposes, and the appearance of the structure shall not be altered or the occupation within the dwelling or accessory structure be conducted in such a manner which would cause the premises to differ from its residential or agricultural character by either the use of colors, materials, construction, lighting, signs, or the emission of sounds, noise, odors or vibrations.
- c. Home occupations may be open to the public between 8:00 a.m. and 8:00 p.m. Longer hours may be kept, unless they become a source of public complaint. Longer hours may be granted through the special exception process of Chapter I.
- d. A home occupation shall have adequate off-street parking spaces available to compensate for additional parking needs generated.
- e. There shall be no exterior storage of business equipment, materials, merchandise, inventory, vehicles or heavy equipment in the Residential District. Such exterior storage in the Transition District shall be screened from the view from public roads and adjacent residential buildings.
- f. Home occupations shall not produce noise or objectionable odors, vibrations, glare, fumes or electrical interference detectable beyond the lot line of the parcel on which the home occupation is located.

- g. Home occupations shall not illegally discharge any materials, fluids or gases into the sewer system or into an on-site waste disposal system nor discharge such items in violation of any applicable government code.
- h. Garage sales, craft sales or other similar sales are permitted without special permit provided that they meet the following standards;
  - (1) Sales last no longer than three days.
  - (2) Sales are held no more than twice yearly.
  - (3) Sales are conducted on the owners' property. Multiple family sales are permitted if they are held on the property of one of the participants.
  - (4) No goods purchased for resale are offered for sale.
  - (5) No consignment goods may be offered for sale.
  - (6) Directional signs may not be placed in the road right-of-way.
  - (7) All directional and advertising signs shall be freestanding and removed upon completion of the sale.
  - (8) All directional and advertising signs placed on private property shall have the owner's permission.
  - (9) No directional or advertising signs may be larger than two (2) square feet.

5. MINOR HOME OCCUPATION.

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

- a. Minor home occupations shall not be conducted in any building on the premises other than the principal dwelling.
- b. No person other than a resident of the principal dwelling may be engaged or employed in a minor home occupation.
- c. Interior or exterior business signs shall be limited to two (2) square feet.
- d. The area set aside for the home occupation shall not exceed twenty (20%) percent of the total floor area of such residence.
- e. There shall not be conducted on the premises the selling of stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled on the premise. That is, the direct sale of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.
- f. Parties for the purpose of selling merchandise or taking orders shall not be held more than four (4) times each month.
- g. Permitted minor home occupations include, but are not limited to, the following:
  - (1) Dressmaking, sewing and tailoring;
  - (2) Painting, sculpturing or writing;
  - (3) Telephone answering or marketing;
  - (4) Home crafts for sale off-site;
  - (5) Tutoring for one student at a time;
  - (6) Home cooking and preserving for sale off-site;
  - (7) Computer programming, data entry or other data processing services;
  - (8) Secretarial services;
  - (9) Accounting and bookkeeping services.

6. MAJOR HOME OCCUPATIONS.

- a. A major home occupation is any proposed or existing home occupation that does not meet the standards for a minor home occupation and may only be allowed in the Transition and Agricultural Districts.
- b. A major home occupation may only be authorized as a special exception by the Plan Commission following the provisions of Chapter I of this ordinance. Special exception permits for major home occupations shall not be granted when it appears to the Plan Commission that the proposed home occupation will constitute a fire hazard to neighboring property owners, will adversely affect neighboring property values, or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, noise, odors or other circumstances.
- c. In order to guarantee that a major home occupation, once authorized, will not become a nuisance to the neighbors or otherwise violate these guidelines, the Plan Commission may impose reasonable conditions necessary to protect the public health, safety and welfare.
- d. In addition to any specific conditions imposed by the Plan Commission, all major home occupations shall also meet all of the following standards:
  - (1) Major home occupations must be conducted within the principal dwelling or permitted accessory structure.
  - (2) Major home occupations may not be located within five hundred (500) feet or any preexisting neighboring residence.
  - (3) Interior or exterior business signs shall be limited to one sign not to exceed six (6) square feet that conforms to all other sign regulations otherwise provided in this ordinance.
  - (4) No more than two (2) persons other than a resident of the principal dwelling may be employed or engaged in a major home occupation.
  - (5) The area set aside for the major home occupation shall not exceed twenty (20%) percent of the total floor area of the principal dwelling. Where an accessory structure is used, the total floor area dedicated to the home occupation, including any area used in the dwelling, shall be limited to one thousand (1,000) square feet. The Plan Commission shall determine an appropriate maximum square footage for the specific proposed home occupation as part of its review.
  - (6) Only merchandise directly incidental to a service provided may be displayed or sold within the dwelling or structure used for a major home occupation.
- e. Special exception permits for major home occupations granted by this section shall be temporary in nature and shall be granted to a designated person who resides at the location of the home occupation. They are not transferable from person to person or from address to address.
- f. Applications for major home occupation special exception permits shall be filed with the Town Zoning Administrator with an application fee provided in the Schedule of Fees Ordinance, made payable to the Treasurer of the Town of St. Croix Falls. The application shall be forwarded to the Plan Commission for public hearing. All such hearings shall be posted as Class 2 notices, and at public meetings of the Town of St. Croix Falls. Legal Notice shall be given to adjoining landowners as required for other special exceptions.

7. GENERAL PROVISIONS.

- a. Inspections. There shall be one (1) annual inspection each year of any authorized home occupation by the Plan Commission or their designee. In addition, the Plan

Commission or their designee shall have the right at any time, upon reasonable request, to enter and inspect the premises for safety and compliance purposes.

- b. Transfers. Should a home occupation permit holder (special exception permit holder) die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation, the Plan Commission may authorize continuation of that permit upon written request without further hearing.
- c. Revocation. Special exception permits for a major home occupation, once granted, shall be revoked by the Plan Commission, for cause, after hearing before the Plan Commission. All such revocations shall be administered in accordance with Chapter I of this ordinance.
- d. Abatement. Any nonconforming home occupation shall be discontinued or comply with all the applicable provisions of this section within one year after the home occupation first became nonconforming.
- e. Penalties and Fines. Penalties for failure to apply for an applicable permit or failure to comply with the provisions of this ordinance or the conditions for such permit shall be as prescribed in the Town's Fees and Penalties Ordinance.

#### **Section E. MOBILE STORAGE CONTAINERS**

1. Before any mobile storage container is placed in the Town of St. Croix Falls a permit shall be required. The zoning administrator shall be responsible for the issuance of such permits.
2. Mobile storage containers are permitted as an accessory use in the Commercial, Agricultural, Transitional, and Industrial Districts provided the following conditions are met:
  - a. In the Commercial, Agricultural, Transitional and Industrial Districts, one mobile storage container per parcel shall be allowed with the permit described in Section E. 1 and if the applicant desires more than one mobile storage container per parcel, the request shall come before the Town Board for consideration and possible approval. All new permitted mobile storage containers in the Commercial, Agricultural, Transitional and Industrial Districts shall be screened from public view and consistent in color with the buildings on the parcel and placed behind buildings when possible.
  - b. In the Commercial and Industrial District, placement of mobile storage containers will be approved while reviewing the site plan during the Commercial Design Guideline process, if applicable.
3. Except for mobile storage containers subject to a special exception, all mobile storage containers in the Town existing on July 21, 2021 which have not obtained a permit shall be allowed to remain in place until August 1, 2026. The mobile storage containers are not allowed to be replaced during this time frame unless a permit is granted and all regulations above are met.

## CHAPTER IV: HIGHWAY SETBACKS AND ACCESS

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

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

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

1.     **PURPOSE.**  
To promote the public safety, general welfare and convenience, it is necessary that highway setback lines be established and they are hereby established in the Town outside the limits of incorporated villages and cities, along all public highways and the intersection of highways and highways with railroads.
  
2.     **JURISDICTION BOUNDARIES**  
Where a highway is located on a city or village boundary, this chapter is not intended to be effective on the side within the city or village nor on the side within another town where the highway is located on a Town boundary.

### **Section C.     COMPLIANCE**

1.     No new building, sign or part thereof shall be placed between the setback lines established by this chapter and the highway, except as provided in Section D. below.
  
2.     No building, structure, sign or part thereof, except those complying with the above regulations, which exists within the setback lines on the effective date of this chapter or any amendment thereto shall be altered or enlarged or reconstructed within such setback lines after having been destroyed by fire, storm or other catastrophe to the extent of 50% or more of its current value.

### **Section D.     STRUCTURE PERMITTED WITHIN SETBACK LINES**

The following kinds of structures and signs may be placed between the setback line and the highway right-of-way.

1.     Open fences.
  
2.     Telephone, telegraph and power transmission poles, and microwave radio relay structures, together with all appurtenances thereto that are readily removable as a unit, including public utility equipment housing or structures, may be constructed within the setback lines and additions to and replacements of any such existing poles, lines and structures may be made, provided the owner files with the Zoning Administrator an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this chapter at his own expense, when necessary for the improvement of the highway right-of-way.

3. Underground structures not capable of being used as future foundations for prohibited structures.
4. Wells and septic tanks and other similar structures.
5. Access or service highways constructed according to plans as approved by the Town Plan Commission and County Highway Committee. In giving such approval, the Plan Commission and County Highway Committee shall give due consideration to highway safety and maximum sight distance.
6. This section shall not prohibit the planting and harvesting of field crops, shrubbery or trees, provided however that no building or structure, trees or shrubbery shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections as provided in Section E. 1.b. shall be obstructed.
7. Where buildings are proposed to be erected or moved between buildings existing at the time of the adoption of this chapter and having setback lines less than those established by this section, which existing buildings are located not more than two hundred fifty (250) feet apart, the Zoning Administrator may issue a permit for such proposed building, providing that the setback of such building shall not be less than the average of the setbacks of the nearest adjoining existing buildings on either side of the locations of the proposed building. In the residential District only, where buildings are proposed to be erected or moved next to or between one or more buildings existing at the time of the adoption of this chapter and having setback lines less than those established by this section, which has an existing building within one hundred fifty (150) feet on one side of property, the Zoning Administrator may issue a permit for such proposed building providing that the setback of such building shall not be less than the setback of the nearest adjoining existing building on either side of the location of the proposed building.
8. Signs only as allowed under Chapter V.

**Section E. HIGHWAY SETBACK REQUIREMENTS**

1. Except as otherwise provided: The distances from centerline to the setback line applicable to the various classifications of highways as defined in Chapter II shall be as provided by the following paragraphs of this section respectively.
  - a. Highway Setbacks. For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the Town highways are divided into classes. The Wisconsin State Highway Plan, 1990 Functional System and the 1990 Freeway-Expressway Plan are the basis for the following classes:
    - (1) Class A Highways.
      - (a) All arterial highways classified as freeways or expressways are hereby designated as Class A highways.
      - (b) The setback from the expressways shall be one hundred ninety (190) feet from the centerline of a two (2) lane facility, one hundred ninety (190) feet from the center of the median of a divided facility or one hundred (100) feet from the right-of-way line, whichever is

greater. These setbacks are also applicable to all officially mapped right-of-way for highway locations or where right-of-way has been purchased for future highway locations.

- (c) Prior to the issuance of a permit for any structure on the property adjoining right-of-way of Class A highways the Department of Transportation, Superior District Office must be consulted.
- (2) Class B Highways.
  - (a) All highways classified as primary, standard and minor and not further classified as a freeway or expressway are hereby designated as Class B highways. This includes State and Federal Highways.
  - (b) The setback from Class B highways shall be one hundred fifty (150) feet from the centerline of such highway, or one hundred (100) feet from the right-of-way line, whichever is greater.
  - (c) Prior to issuance of a permit for any structure on property adjoining right-of-way of Class B highway the Department of Transportation, Superior District Office must be consulted.
- (3) Class C Highways.
  - (a) All highways classified as high or low collectors are hereby designated as Class C highways, including all County Highways.
  - (b) The setback from the Class C highways shall be one hundred (100) feet from the centerline of such highway or sixty seven (67) feet from the right-of-way line, whichever is greater.
  - (c) Prior to issuance of a permit for any structure on property adjoining right-of-way of Class C highway, the County Highway Department must be consulted.
- (4) Class D Highways.
  - (a) All Town roads, not included in the above classifications, or within boundaries of a recorded subdivision are hereby designated as Class D highways.
  - (b) The setback from the Class D highways shall be eighty (80) feet from the centerline or such highways or fifty (50) feet from the right-of-way line, whichever is greater.
  - (c) Prior to issuance of a permit for any structure on property adjoining right-of-way of Class D highway, the Town Highway Committee must be consulted.
- (5) Class E Highways
  - (a) Roads within major or minor subdivision, whether publicly or privately owned, are designated as Class D if they serve or are projected by the County or Town to serve a collection function, and as Class E if they serve a totally local function, connecting individual parcels to collectors.
  - (b) The setback from Class E highways shall be fifty (50) feet from the right-of-way line.
  - (c) If a Class A-D highway traverses or passes on the edge of major subdivision, the setback standard for that class highway shall apply.
  - (d) Where lots within any major or minor subdivision are created with provision to function as private roads prior to January 1, 1994, the setback rules shall apply to those existing lots when development is proposed on them, subject to the granting of reductions in setbacks by the Plan Commission if the lots have insufficient depth

or if a pattern of development on surrounding lots would make prospective application of the setback rules inappropriate in the public interest.

- b. Vision Triangles. In each quadrant of every public street intersection there shall be a visual clearance triangle bounded by the street centerlines and a line connection point on them three hundred (300) feet from a Class A or B highway intersection and two hundred (200) feet from a Class C or D highway intersection.
- c. At Highway Intersections with Transitional Widening. At all intersections of highways with other highways provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width and the setback lines on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
- d. At Railroad Grade Crossings. At grade intersections of all highways with railroads, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line which shall be a straight line connecting points located on the setback lines along the highway and the railroad right-of-way lines and one hundred (100) feet back from the intersections of such highway setback lines and the railroad right-of-way.

## **CHAPTER V: SIGN REGULATIONS AND RESTRICTIONS**

### **Section A. PURPOSE**

The purpose of this chapter is to create the legal framework to regulate, administer, and enforces outdoor sign advertising and display within the Town of St. Croix Falls. This chapter recognizes the need to protect the safety and welfare of the public and the need for well maintained and attractive sign displays within the community, to protect the natural beauty of the area, to maintain adjacent property values, and the need for adequate business identification, advertising and communication. This code authorizes the use of signs visible from public right-of-way, provided the signs are:

1. Compatible with the Town of St. Croix Falls Zoning Regulations and Restrictions, and Wisconsin Department of Transportation, Trans. 201.06.
2. Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety.
3. Legible, readable and visible in the circumstances in which they are used.
4. Respectful of the reasonable rights of other advertisers whose messages are displayed.

### **Section B. PERMITS, APPLICATIONS, ISSUANCE AND DENIAL, APPEALS, INDEMNIFICATION, INSURANCE PENALTIES**

1. **PERMITS REQUIRED.**  
It shall be unlawful for any person to erect, construct, enlarge or structurally modify a sign or cause the same to be done in the Town of St. Croix Falls without first obtaining a sign permit from the Zoning Administrator as required by this section. Permits shall not be required for a change of copy of any sign, nor for the repainting, cleaning, and other normal maintenance and repair of the sign and sign structure.
2. **APPLICATION FOR PERMIT.**  
Application for a permit shall be filed with the Zoning Administrator upon Form 6, provided by the Zoning Administrator or Town Clerk and shall contain the following information:
  - a. The name, address, and telephone number of the sign owner, the property owner where the sign is or where it will be located, and the sign contractor of the proposed sign.
  - b. Clear and legible drawings with the description and nominal dimensions of the proposed sign, the construction, size, dimensions and kind of materials to be used in such structure. The site plan shall show the buildings on the premises upon which the structure is to be erected and maintained together with location, setbacks, size, and types of existing signs on the premises where the proposed sign is to be located. All dimensions shall be indicated for the sign and the site plan elements.
  - c. Such other information as the Zoning Administrator may require to show full compliance with this and all other applicable laws of the Town of St. Croix Falls, and the State of Wisconsin, Department of Transportation.
  - d. Signature of the applicant.

3. **PERMIT ISSUANCE AND DENIAL.**

The Zoning Administrator shall issue a permit for the erection, structural alteration, enlargement, or relocation of a sign within the Town of St. Croix Falls, when the permit application is properly made and the sign complies with the appropriate laws and regulations of the Town of St. Croix Falls. If the sign permit is denied by the Zoning Administrator he/she shall give written notice of the denial to the applicant, together with a brief statement of the reasons for the denial.
4. **SIGN PERMIT APPEAL.**
  - a. In the event any of the requirements herein contained cause undue or unnecessary hardship on any person, firm or corporation, a variance from requirements may be applied for to the Board of Adjustments. An application for variance must be made within ten (10) days after the receipt of notice that the sign involved does not conform to the ordinance and not less than forty-five (45) calendar days before a scheduled meeting of the Board of Adjustments. In the event that the appeal is not made in writing to the Board within such ten (10) day period, a variance may not be granted. The Board of Adjustments is to take action on any variance request within sixty (60) days of receipt of the variance application. The Zoning Administrator shall comply with and enforce the decision of the Board of Adjustments.
  - b. The Zoning Administrator's failure to either formally grant or deny a sign permit within fifteen (15) days of the date an application meeting the requirements of an ordinance if filed, shall be cause for appeal to the Board of Adjustments.
5. **INDEMNIFICATION FOR SIGN INSTALLATION AND MAINTENANCE.**

All persons engaged in the business of installing or maintaining signs which involves in whole or in part, the erection, alteration, relocation, maintenance of a sign or other sign work in, over, or immediately adjacent to a public right-of-way or public property is used or encroached upon by the sign contractor, shall agree to hold harmless and indemnify the Town of St. Croix Falls, it's officers, agents, employees, from any and all claims of negligence resulting from the erection, alteration, relocation maintenance of this sign or any other sign work in so far as this ordinance has not specifically directed the placement of the sign.
6. **PENALTIES.**

Violation or failure to comply with the provisions of this ordinance shall be and hereby is declared to be unlawful.

  - a. Any sign erected, altered, moved or structurally modified without a permit or altered with a permit, but in violation with the provisions of this ordinance, shall be removed at the owner's expense or brought into compliance within thirty (30) days of written notification by the Zoning Administrator. If the violation is a failure to obtain a permit, a permit fee shall be required and a penalty will be imposed as required in the Town Schedule of Penalties and Cash Deposits. In the event that the owner does not remove or bring into compliance, the Zoning Administrator may

- order removal, the expenses of which will be assessed to the tax roll of the property on which the non-complying sign is located.
  - b. This section shall be not precluded the Town of St. Croix Falls from maintaining any appropriate action to prevent or remove a violation of this ordinance.
7. **SIGN PERMIT FEES.**  
Fees for the sign permits shall be included in the Town of St. Croix Falls Schedule of Fees and Penalties Ordinance.

**Section C. LEGAL NON-CONFORMING SIGNS**

1. **NOTIFICATION OF NON-CONFORMANCE.**  
Upon determination that a sign is non-conforming, the Zoning Administrator shall use reasonable efforts to so notify, in writing within thirty (30) days upon making a determination that the sign is non-conforming, the user or owner of the property on which the sign is located of the following:
- a. The sign’s non-conformity.
  - b. Whether the sign is eligible for characterization as legal non-conforming or is unlawful.
2. **SIGNS ELIGIBLE FOR CHARACTERIZATION AS LEGAL NON-CONFORMING.**  
Any sign located within the Town of St. Croix Falls limits as of the date of adoption of this ordinance, hereafter which does not conform with the provisions of this ordinance is eligible for characterization as a legal non-conforming sign and is permitted, providing it also meets the following requirements:
- a. The sign was covered by a proper sign permit prior to the date of adoption of this ordinance.
  - b. If no sign permit was required, under applicable law at the time the sign was erected, that the sign in question was in compliance with all other applicable laws on the date of erection and of adoption of this ordinance.
3. **LOSS OF LEGAL NON-CONFORMING STATUS.**  
A sign loses its nonconforming status if one or more of the following occurs:
- a. The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this ordinance than it was before alteration.
  - b. The sign is relocated.
  - c. The sign fails to conform to the ordinance regarding maintenance and repair, abandonment, or dangerous or defective signs.
  - d. Fifty (50%) percent or more of the sign structure is destroyed by any means. Structure in this instanced also includes any wood or metal used for display, but not the copy on the display.
  - e. On the date of the occurrence of any of the above, the sign shall be immediately brought into compliance with this ordinance.
4. **LEGAL NON-COMFORMING SIGN MAINTENANCE AND REPAIR.**  
Nothing in this ordinance shall relieve the owner or user of a legal non-conforming 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.

**Section D. REMOVAL AND DISPOSITION OF SIGNS.**

1. MAINTENANCE AND REPAIR.
  - a. Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repairing, cleaning and other acts required for the maintenance of said signs.
  - b. The Town of St. Croix Falls shall require compliance with all standards of this ordinance. If the sign is not modified to comply with safety standards outlined in this ordinance, the Zoning Administrator shall require its removal in accordance with this section.
  
2. ABANDONED SIGNS.

All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premises sign is located when the business it advertises is no longer conducted or, for an off-premises sign, when lease payment and rental income are no longer provided. If the sign structure meets all current regulations for size and setbacks the structure will not need to be removed, provided the structure is not deteriorated or dilapidated. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days written notice to remove said sign. Upon failure to comply with this notice the Town of St. Croix Falls may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.
  
3. DETERIORATED OR DILAPIDATED SIGNS.

The Zoning Administrator shall cause to be removed any deteriorated or dilapidated signs under the provisions of Wisconsin Statutes 66.05.

**Section E. ADMINISTRATIVE AND ENFORCEMENT OFFICER**

1. ZONING ADMINISTRATOR.

The Zoning Administrator is hereby designated as the Administrative and Enforcement Officer for the provisions of this section. The Zoning Administrator and Building Inspector shall examine all applications for permits for the erection of signs, issue permits and denials, authorize the continued use of signs which conform with the requirements of this code, record and file all applications for permits with any accompanying plans and documents, make inspections of signs in the Town of St. Croix Falls and make such reports as the town may require.

**Section F. PROHIBITED SIGNS**

The following signs shall be prohibited within the Town of St. Croix Falls:

1. ABANDONED SIGNS.

2. SWINGING SIGNS.

3. FLOODLIGHTED OR ILLUMINATED SIGNS.

Signs may be floodlighted or illuminated, subject to the following restrictions:

- a. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.
- b. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property and which are of such intensity or brilliance as to cause a public nuisance are prohibited.
- c. No signs shall be so floodlighted or illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

4. UNCLASSIFIED SIGNS.

The following signs are prohibited which:

- d. Bear or contain statements, words or pictures of obscene, pornographic or immoral subjects.
- e. Signs which are in imitation, or resemble in shape, size, copy or color an official traffic sign or signal.
- f. Signs erected or maintained upon trees, painted or drawn upon rocks or other natural features.
- g. All signs in the township not including a legible tag, readable from ground level, identifying the name, address and telephone number of the owner of the sign; the date of erection of the sign structure and the date of the latest inspection of the sign structure.

5. VEHICULAR SIGNS.

Signs painted upon or attached to trucks or other vehicles, or parts thereof, and parked on a parcel for purposes of visual display are prohibited.

**Section G. SIGNS NOT REQUIRING A PERMIT**

1. CONSTRUCTION SIGNS.

Two (2) construction signs per construction site, not exceeding thirty two (32) square feet in area each, shall be confined to the site of the construction, and shall be removed within thirty (30) days after completion of construction prior to occupancy, whichever is sooner.

2. DIRECTIONAL AND INSTRUCTIONAL NON-ELECTRIC SIGNS.

Directional and instructional non-electric signs, which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed eight (8) square feet each in area and do not in any way advertise a business. This includes, but is not limited to, such signs as those identifying rest rooms, telephone, parking areas, entrances and exits.

3. NON-ILLUMINATED EMBLEMS.

Non-illuminated emblems, or insignia of any nation or political subdivision, profit or non-profit organization.

4. **GOVERNMENT SIGNS.**  
Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service safety which are erected by or on the order of a public officer in the performance of his public duty.
5. **HOME OCCUPATION SIGNS.**  
Signs associated with a home occupation as defined in the zoning ordinance, provided such signs are non-illuminated signs that do not exceed two (2) square feet in area. One sign per home occupation is allowed.
6. **HOUSE NUMBERS AND NAMEPLATES.**  
Name plates not exceeding one (1) square foot in area for each residential building. House numbers not exceeding one (1) foot in height. Written house numbers not exceeding one (1) foot in height. Single letters (not names) when used to identify individual multiple-family dwelling units, not to exceed one (1) foot in height.
7. **INTERIOR SIGNS.**  
Signs located within the interior of any building or structure which are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical, or material specifications of this ordinance.
8. **MEMORIAL SIGNS AND PLAQUES.**  
Memorial signs or tablets, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building or when constructed of bronze or other non-combustible material not more than four (4) square feet in area.
9. **NO TRESPASSING OR DUMPING SIGNS.**  
No trespassing and no dumping signs not to exceed one and one-half (1 ½) square feet in area per sign.
10. **PUBLIC NOTICES.**  
Official notices posted by public officers or employers in the performance of their duties.
11. **PUBLIC SIGNS.**  
Signs required as specifically authorized for a public purpose by any law, statute, ordinance.
12. **POLITICAL AND CAMPAIGN SIGNS.**  
Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that signs are subject to the following regulations:
  - a. No sign shall be located within fifteen (15) feet of the public right-of-way, nor closer than fifty (50) feet of an intersection, nor over the right-of-way.
  - b. Political and campaign signs shall not be attached to public signs or utility poles.

13. REAL ESTATE SIGNS.  
One (1) real estate sign on any lot or parcel provided such sign is located entirely within the property to which the sign applies and is not directly illuminated.
  - a. In residential and commercial districts, such signs shall not exceed eight (8) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
  - b. In all other districts, such signs shall not exceed sixteen (16) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
  - c. Shoreline property. Two real estate signs are permitted allowing one (1) sign adjacent to the ordinary high water mark and one (1) sign adjacent to the street.
  
14. ON-PREMISE SYMBOLS OR INSIGNIA.  
Religious symbols, commemorative plaques or recognized historic agencies, of identification emblems of religious order or historic agencies.
  
15. ON-PREMISE TEMPORARY SIGNS.  
Temporary signs not exceeding four (4) square feet in area pertaining to drives or events of civic, philanthropic, educational, or religious organizations, provided such signs are posted not more than thirty (30) days before said event and removed within seven (7) days after the event.
  
16. VEHICULAR SIGNS.  
Truck, bus, trailer or other vehicles, while operating in the normal course of business, which is not in the display of signs.
  
17. INTERIOR WINDOW SIGNS.  
Permanent signs located within the interior of any building or structure which are visible from the public right-of-way provided the gross area of the sign does not exceed four (4) square feet (see Section I 5). This does not include temporary advertising, special event, or sales type of signs.

**Section H. CONSTRUCTION SPECIFICATIONS**

1. Every sign or advertising structure hereafter erected shall have marked in a conspicuous place thereon, the date of erection, the manufacture's name, the permit number and the voltage of any electrical apparatus used in connection therewith.
  
2. All signs shall comply with the provisions for the Town of St. Croix Falls Zoning Ordinance, the current National Electrical Code and the additional construction standards herein after set forth.
  
3. All ground sign structures shall be self-supporting structures and permanently attached to sufficient foundations.
  
4. Electrical service to ground signs shall be concealed wherever possible.

5. No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.
6. Supports and braces shall be an integral part of the sign design. Angle irons, chains, or wires used for supports or braces shall be hidden from the public view to the extent technically feasible.

**Section I. GENERAL DESIGN REQUIREMENTS**

1. A ground sign, any part of which is closer than fifteen (15) feet to the right-of-way shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or be not more than four (4) feet in height.
2. Any overhead sign location that is accessible to vehicles shall have a minimum vertical clearance of sixteen (16) feet.
3. No sign facing a residential or transition district shall be closer than five hundred (500) feet to that district line.
4. Wall sign placed against the exterior walls of buildings shall not extend more than sixteen (16) inches outside of a buildings wall surface.
5. The gross area of permanent window signs shall not exceed fifty (50%) percent of the gross window area.
6. All signs in the township shall include a legible tag, readable at ground level, identifying the name, address and telephone number of the owner of the sign, the date of erection of the sign structure and the date of the latest inspection of the sign structure.

**Section J. SPECIAL SIGNS**

1. **SUBDIVISION DEVELOPMENT SIGNS.**  
The Zoning Administrator may issue a special permit for a temporary sign in any zone in connection with the marketing of lots or structures in a subdivision, subject to the following restrictions:
  - a. Such permits may be issued for a period of not more than one (1) year and may be reviewed for additional periods of up to one (1) year upon written application at least thirty (30) days prior to its expiration.
  - b. The sign must be located on the property being developed and must comply with all applicable building setback requirements.
  - c. The sign may not exceed eighty (80) square feet.
  - d. One sign is allowed for each major street adjacent to the subdivision.
2. **BANNERS AND PENNANTS.**  
Banners and pennants shall not be used on a permanent basis. They may be permitted as special promotion in a commercial or industrial zone for a total period not to exceed thirty (30) days and will be allowed in residential zones in conjunction with an open house or model home demonstration for up to five (5)

days before the opening of such demonstration or five (5) days after and not to exceed a total period of thirty (30) days.

3. **PORTABLE SIGNS.**

- a. Permit. Any person wishing to place a portable sign on his premises shall first obtain a permit from the Zoning Administrator. Permits shall be issued for a period not to exceed thirty (30) days in any calendar year. Any sign remaining on the premises for more than thirty (30) days in any calendar year shall be deemed to be a permanent sign and shall meet all requirements for a permanent sign.
- b. Size. No portable sign shall exceed thirty-two (32) square feet and no portable sign shall be over seven (7) feet in height from grade level.
- c. Setback. All portable signs shall have a minimum setback from the property line of fifteen (15) feet or an additional setback as deemed necessary by the Zoning Administrator for the safe flow of vehicle or pedestrian traffic.
- d. Off Premises Portable Signs Portable signs may be allowed on off-premise locations to advertise for civic, philanthropic, fund raising, or charitable events. Signs may be placed up to twenty-one (21) days before the event and must be removed no more than seven (7) days after the event. Signs are limited to thirty-two (32) square feet and must be placed at least fifteen (15) feet from the property line. No more than three (3) such event signs may be placed on any one parcel in any calendar year.

4. **OFF-PREMISE SIGNS.**

Off-premise signs are permitted in the commercial and industrial districts, subject to the following provision:

- a. Spacing. Off-premise signs on the same side of the street shall not be placed closer than one thousand (1,000) feet nor closer than three hundred (300) feet to any intersection or driveway access.
- b. Size Restriction. The maximum size allowed for an off-premise signs is two hundred eighty-eight (288) square feet per side. The maximum size limitations shall apply to each side of a sign structure and signs may be placed back-to-back, or in a V-type construction with not more than two (2) displays to each facing, and such sign structure shall be considered as one sign.
- c. Height Restriction. No off-premise sign shall exceed twenty-five (25) feet in height.
- d. Length. No off-premise sign shall exceed twenty-five (25) feet in length.
- e. Setbacks. No part of an off-premise sign shall be closer to the street than the building setback lines of the district in which it is located.
- f. Areas. No off-premise sign shall be erected within five hundred (500) feet of a residential, transition, agricultural or conservancy district or public park.

5. **FLASHING SIGNS.**

Flashing signs are permitted provided the signs meet all setback and size restrictions within this ordinance and meet the requirements of Wisconsin State Statute 84.30 (4) (bm) (as amended).

**SECTION K. INTEGRATED SHOPPING CENTER**

For integrated shopping centers in single partnership or under unified control and containing several businesses, the following regulations shall apply.

1. Each business or office shall be eligible for one attached sign.
2. One ground sign for shopping center identification with the height limitation of twenty-five (25) feet is permitted. If the shopping center is on a corner, either one (1) corner sign or two (2) signs, one on each street is permitted. If two (2) signs are installed, they must be placed at least two hundred (200) feet from the lot corner at the intersection. The area of such sign shall not exceed the greater of one hundred (100) square feet per facing or have more than twenty-five (25) square feet per business in the integrated shopping center, with a maximum of two (2) facings. No sign shall be closer than twenty (20) feet to a property line unless the adjacent property is a residential, transition, agricultural or conservancy district in which case the sign shall be set back five hundred (500) feet and no sign shall be placed between the highway and the frontage road.

**Section L. DISTRICT REGULATIONS**

The following signs are allowable providing permit is acquired from the Zoning Administrator.

1. **RESIDENTIAL DISTRICT.**  
No signs allowed except for those provided in Section G of this chapter.
2. **COMMERCIAL DISTRICT.**  
In the commercial district, signs shall be regulated as follows:
  - a. Permitted signs. Wall, window, ground and directional signs. Each parcel shall be allowed one (1) wall sign and one (1) window sign.
  - b. Ground Signs. The area of a ground sign shall not exceed one hundred (100) square feet per facing, with a maximum of two (2) facings. Only one on- premise ground sign shall be permitted for each parcel. No ground sign shall project higher than twenty-five (25) feet above grade. No sign shall be closer than twenty (20) feet to a property line unless the adjacent property is a residential, transition, agricultural or conservancy district in which case the sign shall be set back five hundred (500) feet and no sign shall be placed between the highway and the frontage road.
  - c. Off-premise Signs. Off-premise signs shall be permitted in conformance with Section J. 4 of this chapter.

## CHAPTER VI: OFF-STREET PARKING

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

This chapter sets forth, minimum requirements for off-street parking arrangements for the uses listed.

### **Section B. GENERAL RULES**

1. In a commercial or industrial district, whenever a lot abuts upon a public or private alley, sufficient loading space shall be provided on the lot or adjacent thereto in connection with any business or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.
2. One off-street parking space shall be two hundred (200) square feet of area, exclusive of adequate ingress and egress driveways to connect with a public thoroughfare. A single stall in any garage may replace any single required parking space.
3. Not more than half the space in any private garage may be rented for the storage of the private passenger vehicles of persons not resident on the premises, except that all of the space in a private garage having a capacity of not more than two (2) such vehicles may be rented.
4. No commercial motor vehicle shall be parked or stored in the open in a residential district; parked or stored unscreened in a transitional district lot of under ten (10) acres. No vehicle shall be allowed to be parked and allowed to remain running, unoccupied, that is less than four hundred (400) feet from any residence other than that of the vehicle owner.
5. No building for which off-street parking space is required may be added to, structurally altered or converted in use so as to encroach upon or reduce the parking space below the required minimum.
6. No parking spaces required under this subchapter may be used for another purpose. However, open spaces required for setback and side yards may be used for such parking spaces or approaches thereto, except that on corner lots there shall be no parking in the vision clearance triangle.
7. All parking spaces shall be graded and drained so as to prevent the accumulation of surface water. All parking spaces in the commercial or industrial districts and residential parking lots in the residential, transitional and agricultural districts containing more than three (3) parking spaces shall be provided with a low dust or dust free surface. All such parking spaces shall have dust free surfaces by September 1, 2005.
8. Parking lots containing five (5) or more parking spaces which are located in the residential districts or adjacent to residential lots, shall be screened along the side of such lots which abut the lot lines of residential lots by solid wall, fence or evergreen planting of equivalent capacity or other equally effective means, built or maintained at a minimum height of four (4) feet. If parking lots so located are

lighted, the lights shall be so shielded as to prevent undesirable glare or illumination of adjoining residential property.

**Section C. REQUIRED OFF-STREET PARKING SPACES FOR SPECIFIED USES**

1. Single family dwellings shall provide two (2) spaces.
2. Multiple family dwellings shall provide two (2) off-street spaces for each family for which accommodations are provided in the building plus one more space per building.
3. Establishments offering curb service to customers who remain in their vehicles shall provide at least five (5) off-street parking spaces for each person employed to serve such customers.
4. Retail or local business places, banks, offices and professional offices and personal service shops shall provide at least one off-street parking space for each two hundred (200) square feet ground floor area plus at least one additional parking space for each two hundred (200) square feet of upper floor area.
5. Buildings combining business and residential use shall provide at least one off-street parking space for each three hundred (300) square feet of area devoted to business use, plus at least one parking space for each family for which, accommodations are provided on the premises.
6. Theaters, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage shall provide at least one (1) parking space for each seven (7) seats.
7. Motels, hotels, lodging houses and dormitories shall provide at least one (1) parking space for each guestroom.
8. Restaurants, taverns and similar places for eating and for refreshments, except curb service establishments, shall provide at least one (1) parking space for each fifty (50) square feet of floor space devoted to the use of the patrons.
9. Funeral homes and mortuaries shall provide at least one parking space for each fifty (50) square feet of space devoted to parlors.
10. Bowling alleys shall provide at least five (5) parking spaces for each alley.
11. Service stations shall provide parking for all vehicles used directly in the conduct of the business, plus two (2) spaces for each gas pump, plus three (3) spaces for each grease rack.
12. Industrial uses shall provide at least one (1) parking space for each one thousand (1,000) square feet of area devoted to warehouse use, one (1) parking space for each three hundred (300) square feet of area devoted to manufacturing, and one (1) parking space for each two hundred (200) square feet of area devoted to office or clerical use, or provide one (1) parking space for every two (2) employees plus one (1) additional parking space for each vehicle operated in

connection with such use for which parking on the premises is required, whichever is greater.

13. Public parks and playgrounds shall provide one (1) space for each four (4) persons designed to be accommodated.
14. Any use not specifically named shall be assigned to the most appropriate classification by the Zoning Administrator subject to review by the Plan Commission or appeal to the Board of Adjustments.

## CHAPTER VII: MOBILE HOMES

### **Section A. GENERAL**

1. All mobile homes located in the town shall be subject to the following requirements:
  - a. Shall be a minimum of twenty-six (26) feet wide and be at a minimum of one thousand, one hundred and twenty (1,120) square feet.
  - b. Shall be approved by a HUD certification under Standards 101.94 (as authorized in 42 US 5401) as a manufactured home.
  - c. Shall have its hitch and all wheels and all axles removed and be mounted on and anchored to, a permanent foundation or piers that are spaced six (6) feet or less apart and extended below the frost line.
  - d. The area beneath the mobile home, if not a continuous foundation, must be completely enclosed with a skirting material (of steel, aluminum, or vinyl) that matches the color and quality of the home.
  - e. The owner must provide a matching accessory building or garage for storage purposes.
  - f. Other than in designated areas such as state parks or campgrounds, or as is provided elsewhere in this chapter, a travel trailer will not be allowed on any lot for more than fourteen (14) days.
  - g. Any mobile home is considered attached to the land and subject to taxation as an improvement to real estate.
  - h. Shall have a “pitched” roof system, not a “crowned” roof system.
2. Pre-built, pre-fabricated or modular homes, which shall be mounted on a continuous permanent foundations, are not considered “mobile homes” and are permitted in any district that would permit on-site construction of a home, subject to all provisions and restrictions applicable to such a home, as if it were constructed on-site.

### **Section B. MOBILE HOMES LOCATED OUTSIDE OF A MOBILE HOME PARK**

1. No person shall occupy any new, use or replacement mobile home or manufactured home, as a dwelling or for any other purpose, outside of a mobile home park, unless they first obtain Use and Building Permits from the Zoning Administrator (or the Plan Commission) and all necessary County Sanitary and Use Permits.

Applications for the permit shall be made to the Zoning Administrator and shall state names and permanent addresses of the occupants, serial or license number of the mobile home, the location of the premises, the name of the owner and occupant of the premises, and the owner’s and occupant’s permission to locate on the premises, the number and date of the Polk county Sanitary Permit and the nature and location of sanitary facilities, permission of the owner for their use that all wastes from the mobile home’s occupancy will be disposed of in a sanitary manner and the date of the application and the signature of the applicant.
3. All occupants of any mobile home located outside of a mobile home park shall register with Town Clerk as provided in Section C of this chapter. All provisions of this chapter governing the location, use and sanitation of mobile homes

located in mobile home park shall, so far as they are applicable, apply to any mobile home located outside of a mobile home park.

4. **PARKING.**

- a. It shall be unlawful, except as provided in this ordinance, for any person to park any mobile home on any street, highway, or other public place, or on any tract of land owned by any person within the Town of St. Croix Falls.
- b. Emergency or temporary stopping or parking is permitted on a street or highway for not longer than one hour subject to any other limitations imposed by traffic regulations.
- c. No person shall park or occupy any mobile home on any premises situated outside an approved mobile home park, except under special permit as provided in Section A of this chapter. The parking and storing of only one unoccupied mobile home or travel trailer is permitted without such special permit providing no living quarters shall be maintained, or any business practices, in said mobile home while such mobile home or travel trailers so parked or stored. Any mobile home or travel trailer so parked or stored in a residential district, shall be in an accessory garage building or in a yard so as to be screened from view from any public or private street or any neighboring dwelling or its attached decks or patios.

5. **SPECIAL EXCEPTIONS**

- a. Mobile homes owned or held on consignment by a licensed mobile home dealer and parked at his/her place of business in the commercial district.

**Section C. MOBILE HOME PARKS**

1. **APPLICATIONS AND ISSUANCE.**

It shall be unlawful for any person to establish, operate or maintain a mobile home park within the limits of the Town of St. Croix Falls, without having first secured a license for such park from the Zoning Administrator pursuant to this ordinance. Such license shall expire three (3) years from the date of issuance, but may be renewed under the provisions of this ordinance for additional periods of three (3) year. A bond (the amount and terms of which will be determined by the Plan Commission after the hearing for a special exception) prior to the issuance of a license for a mobile home park.

2. **FEES.**

The application for such license or renewal thereof shall be filed with the Town Clerk or Zoning Administrator, with a fee prescribed in the Town's Schedule of Fees and Penalties Ordinance.

3. **FILING.**

The application for such license or renewal shall be on forms furnished by the Town Clerk or Zoning Administrator and shall include the legal description of the premises upon which the mobile home park is or will be located, name and address of the owner thereof, and shall be accompanied by two copies of the park plan showing the following, either existing or as proposed:

- a. The extent and area used for park purposes.

- b. Roadways and driveways.
- c. Location of spaces.
- d. Method and plan of sewage disposal.
- e. Method and plan of garbage disposal.
- f. Plan for water supply.
- g. Plan for electrical connections.
- h. Plans for sewer pipes and connections.
- i. Plans for water pipes and connections.

4. RULES AND REGULATIONS.

- a. The minimum size of a mobile home park shall be thirty-five (35) acres.
- b. All drives, parking areas and walkways shall be hard surfaced.
- c. There shall be a minimum yard setback for forty (40) feet at all lot lines of the mobile home park.
- d. Mobile home parks shall conform to the requirements of Chapter 77 of the Wisconsin Administrative Code.
- e. No mobile home site shall be rented for a period of less than thirty (30) days.
- f. Each mobile home shall be separated from other mobile homes by a yard not less than fifty (50) feet wide.
- g. There shall be two (2) hard surfaced automobile parking spaces for each mobile home.
- h. Unless adequately screened by existing vegetative cover, mobile home parks shall be screened by a temporary planting of fast growing material capable of reaching a height of fifteen (15) feet or more such as hybrid poplar, and permanent evergreen planting such as white or Norway pine, the individual trees to be such a number as so arranged that within ten (10) years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent plantings shall be grown or maintained to a height of not less than fifteen (15) feet.
- i. All mobile home parks located near navigable water shall be set back at least one thousand (1,000) feet from the high water mark.

5. REGISTRATION.

A register of all tenants, open to inspection by state, federal and local officers, shall be kept by the mobile home park licensee, which shall show the following for all tenants:

- a. Names and addresses.
- b. Number of children school age.
- c. State of legal residence.
- d. Dates of entrance and departure.
- e. License numbers of all mobile homes and towing vehicles.
- f. States issuing such licenses.
- g. Purpose of stay in park.
- h. Place of last location and length of stay.
- i. Place of employment of each occupant.

6. PARK LICNSEES SHALL: Maintain the park in a clean, orderly and sanitary condition at all times, insure that the provisions of the Fees and Penalties Ordinance are complied with and enforced, maintain, in convenient places, hand fire extinguishers in the ratio of one to each eight (1:8) units, collect the monthly

parking permit fee provided for in this ordinance, maintain a book showing the names of the person paying said fees and the amount paid, prohibit the lighting of open fires on the premises.

- a. There is hereby imposed on each owner of a non-exempt, occupied mobile home in the Town of St. Croix Falls, a monthly parking permit fee determined in accordance with Section 66.058(3) of the Wisconsin Statutes, to which is hereby adopted by reference and made part of this ordinance as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile home owner.
- b. Licensees of mobile home parks and owners of land on which are parked and occupied, non-exempt mobile homes shall furnish information to the Town Clerk and Town Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the Town Clerk in accordance with Section 66.058(3) (c) and (e) of the Wisconsin Statutes.
- c. Owners of non-exempt, occupied mobile homes, upon receipt of notice from the Town Clerk of their liability for the monthly parking permit fee, shall remit to the Town Clerk a cash deposit of one hundred (\$100) dollars to guarantee payment of such fees when due to the Town Treasurer. It shall be the full and complete responsibility of the licensee of a mobile home park to collect, and remit, such cash deposits to the Town Clerk. Upon receipt of a notice from the owner or licensee that the non-exempt, occupied mobile home has been or is about to be removed from the town, the Town Clerk shall direct the Town Treasurer to apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

7. **REVOCAION AND SUSPENSION.**

The Town Board is hereby authorized to revoke any license or permit issued pursuant to the terms of this chapter, in accordance with Section 66.058 Wisconsin Statutes.

**Section D. COMPLIANCE AND PENALTIES**

1. **COMPLIANCE.**

All mobile home parks and mobile homes located in said town at the effective date of this ordinance shall within ninety (90) days thereafter comply with its provisions, except that the Plan Commission may, upon application of a mobile home park owner or mobile home owner, waive or defer such requirements that require prohibitive reconstruction costs, if such waiver does not create or permit to continue any hazard to the welfare and health of the town or any resident thereof, or the occupants of such mobile home park.

2. **PENALTIES.**

Any person violating any provision of this chapter shall upon conviction thereof, forfeit no less than the sum prescribed in the Town Fees and Penalties Ordinance and the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment of such forfeiture and the costs of prosecution, but not exceeding thirty (30) days for each violation. Each day of violation shall constitute a separate offense.

**Section E.      REPEAL BY ADOPTION**

Inconsistent provisions of Ordinance Number 4: REGULATING PARKING AND LOCATION OF HOUSE TRAILERS, LICENSING AND REGULATING TRAILER CAMPS, PROVIDING FOR TAXATION OF TRAILERS AND PROVIDING A PENALTY, enacted May 25, 1996 are hereby repealed by enactment of this ordinance by the Town Board of St. Croix Falls. Approval of this ordinance by the Polk County Board and publication of the entire ordinance or by inclusion in a Municipal Code of Ordinances and the publication of a summary of the ordinance. The effective date of the repeal shall be coincidental with the date of the latest of the enumerated actions necessary to the enactment and enforcement of this ordinance.

**Chapter VIII**  
**REGULATIONS GOVERNING SEXUALLY ORIENTATED BUSINESSES**

**(I) PURPOSE AND INTENT**

(A) In enacting this Ordinance, the Town Board (“Board”) of the Town of St. Croix Falls (“Town”) makes the following statement of intent and findings:

(1) Adult entertainment establishments require special supervision from the public safety agencies of this Town in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of this Town.

(2) The Town Board finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.

(3) The concern over sexually transmitted diseases is a legitimate health concern of this Town that demands reasonable regulation of adult entertainment establishments by this Town in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.

(4) Minimal regulations enacted by this Town are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(5) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.

(6) The Town Board desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner. And by minimizing and controlling these adverse effects, the Town Board seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

(7) The Town Board has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of this Town and that expanded regulation of adult entertainment establishments is necessary.

(8) It is not the intent of the Town Board in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.

(9) It is not the intent of the Town Board to condone or legitimize the distribution of obscene material, and the Town Board recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.

(B) It is the intent of the Town Board in enacting this Ordinance to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of this Town and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within this Town. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the Town Board in enacting this Ordinance to restrict or deny, or authorize the restriction or denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of the Town Board in enacting this Ordinance to condone or legitimize the distribution or exhibition of obscene material.

(C) Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the Town Board (and on findings incorporated in the cases of *Township of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C. (2004)*, 541 U.S. 774; *Township of Erie v. Pap's A.M. (2000)*, 529 U.S. 277; *Barnes v. Glen Theatre, Inc. (1991)*, 501 U.S. 560; *Township of Renton v. Playtime Theatres, Inc. (1986)*, 475 U.S. 41; *Young v. American Mini Theatres (1976)*, 426 U.S. 50; *California v. LaRue (1972)*, 409 U.S. 109; *DLS, Inc. v. Township of Chattanooga (6th Cir. 1997)*, 107 F.3d 403; *East Brooks Books, Inc. v. Township of Memphis (6th Cir. 1995)*, 48 F.3d 220; *Harris v. Fitchville Township Trustees (N.D. Ohio 2000)*, 99 F. Supp.2d 837; *Bamon Corp. v. Township of Dayton (S.D. Ohio 1990)*, 730 F. Supp. 90, *aff'd* (6th Cir. 1991), 923 F.2d 470; *Broadway Books v. Roberts (E.D. Tenn. 1986)*, 642 F. Supp. 486; *Bright Lights, Inc. v. Township of Newport (E.D. Ky. 1993)*, 830 F. Supp. 378; *Richland Bookmart v. Nichols (6th Cir. 1998)*, 137 F.3d 435; *Deja Vu v. Metro Government (6th Cir. 1999)*, 1999 U.S. App. LEXIS 535; *Threesome Entertainment v. Strittmather (N.D. Ohio 1998)*, 4 F.Supp.2d 710; *J.L. Spoons, Inc. v. Township of Brunswick (N.D. Ohio 1999)*, 49 F. Supp.2d 1032; *Triplett Grille, Inc. v. Township of Akron (6th Cir. 1994)*, 40 F.3d 129; *Nightclubs, Inc. v. Township of Paducah (6th Cir. 2000)*, 202 F.3d 884; *O'Connor v. Township and County of Denver (10th Cir. 1990)*, 894 F.2d 1210; *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County (6th Cir. 2001)*, 2001 U.S. App. LEXIS 26007; *State of Ohio ex rel. Rothal v. Smith (Ohio C.P. 2002)*, Summit C.P. No. CV 01094594; *Z.J. Gifts D-2, L.L.C. v. Township of Aurora (10th Cir. 1998)*, 136 F.3d 683; *Connection Distrib. Co. v. Reno (6th Cir. 1998)*, 154 F.3d 281; *Sundance Assocs. v. Reno (10th Cir. 1998)*, 139 F.3d 804; *American Library Association v. Reno (D.C. Cir. 1994)*, 33 F.3d 78; *American Target Advertising, Inc. v. Giani (10th Cir. 2000)*, 199 F.3d 1241; and other cases and on reports of secondary effects occurring in and around adult entertainment establishments in Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma Township, Oklahoma (1986); Cleveland, Ohio (1977); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Oklahoma Township, Oklahoma (1986 and 1992); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado

(1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports, testimony, newspaper reports, and other documentary evidence), and subsequent findings in *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F.3d 291; 729, *Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F.3d 485; and *Andy's Rest. & Lounge, Inc. v. City of Gary* (7th Cir. 2006), 466 F.3d 550, and the Town Board's independent review of the same) the Town Board finds:

- (1) Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.
- (2) Certain employees of adult entertainment establishments, as defined in this Ordinance as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The "couch dances" or "lap dances" that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of "engaging in prostitution" under Wisconsin law.
- (4) Offering and providing private or semi-private booths or cubicles encourages such activities, which creates unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments.
- (6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.

- (8) A total of 8,586 AIDS cases had been reported in Wisconsin as of May, 2011.
- (9) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Wisconsin.
- (10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen. 33,613 cases were reported in 1982, and 45,200 cases were reported through November 1990.
- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
- (12) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (14) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (15) The findings noted in divisions (C) (1) to (14) of this section raise substantial governmental concerns.
- (16) Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns.
- (17) The enactment of this Ordinance will promote the general welfare, health, morals, and safety of the citizens of this Town.

## **(II) DEFINITIONS**

### **(A) As used in this Ordinance:**

(1) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(2)(a) "Adult bookstore," "adult novelty store," or "adult video store" means a commercial establishment that, for any form of consideration, has as a significant or

substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

(i) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;

(ii) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

(b) “Adult bookstore,” “adult novelty store,” or “adult video store” includes a commercial establishment as defined herein. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.

(3) “Adult cabaret” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

(a) Persons who appear in a state of nudity or semi nudity;

(b) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(4) “Adult entertainment” means the sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

(5) “Adult entertainment establishment” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or seminude model studio, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person

licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to Chapter 460, Wisconsin Statutes, as amended, is not an “adult entertainment establishment.”

(6) “Adult motion picture theater” means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(7) “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(8) “Characterized by” means describing the essential character or quality of an item.

(9) "Commercial establishment" means an entity that is open to the public and to which either of the following applies:

(a) It has a substantial or significant portion of its stock in trade of the sale, rental, or viewing of visual materials or performances depicting sexual conduct.

(b) It has as a principal business purpose the sale, rental, or viewing of visual materials or performances depicting sexual conduct.

(10) “Distinguished or characterized by their emphasis upon” means the dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films “that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas,” the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

(11) “Employee” means any individual who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(12) “Immediate Family” means a person's spouse residing in the person's household, parents, siblings of the whole or of the half blood, and children, including adopted children.

(13) “License” means a license to act or operate a sexually oriented business, issued pursuant to this Ordinance.

(14) “Licensee” means a person in whose name a license to operate has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to an Employee license issued under this Ordinance, licensee means an employee as defined by Section (II), sub-

section (B) above in whose name a license has been issued authorizing employment at sexually oriented business.

(15)(a) “Nude or seminude model studio” means any place where a person, who regularly appears in a state of nudity or semi nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(b) A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

(i) By a college or university supported entirely or partly by taxation;

(ii) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;

(iii) In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi nudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.

(16) “Nudity,” “nude,” or “state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

(17) “Operate” means to control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. “Operate” or “Cause to be Operated” shall mean to cause to function or to put or keep in operation.

(18) “Operator” means any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(19) “Patron” means any individual on the premises of a sexually oriented business, except for any of the following:

(a) An operator or an employee of the sexually oriented business;

(b) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(c) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer's duties as a public employee or volunteer.

(20) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation, limited liability company or combination of individuals of whatever form or character.

(21) "Premises" means the real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited, to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.

(22) "Regularly" means consistently or repeatedly.

(23) "Regularly features" or "regularly shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

(24) "Seminude" or "state of semi nudity" means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(25) "Sexual device" means any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(26) "Sexual device shop" means a commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic, or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.

(27) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or seminude.

(28)(a) "Sexual encounter establishment" means a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

(i) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.

(ii) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

(b) An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to Chapter 460, Wisconsin Statutes, is not a “sexual encounter establishment.”

(29) “Sexually Oriented Business” means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by Section (II), sub-section (A) of this Ordinance, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

(30) “Specified anatomical areas” includes human genitals, pubic region, and buttocks and the human female breast below a point immediately above the top of the areola.

(31) “Specified Criminal Activity” means any of the following offenses:

(a) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;

(b) for which:

(i) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

(ii) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(c) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

(32) “Specified sexual activity” means sex acts, normal or perverted, or actual or simulated, including sexual intercourse, oral copulation, masturbation, or sodomy, or excretory functions as a part of or in connection with any of these activities.

(33) “Transfer of Ownership or Control” of a sexually oriented business shall mean any of the following:

(a) the sale, lease, or sublease of the business;

(b) the transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or

(c) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(34) "Visual materials or performances" means films, videos, CD-ROM discs, streaming video, or other motion pictures.

### **(III) LICENSE REQUIRED**

(A) No person shall:

(1) Operate a sexually oriented business as defined by Section (II), sub-section (K) without a valid sexually oriented business license issued by the Town pursuant to this Ordinance.

(2) In connection with operating a sexually oriented business, retain the services of a person as an employee, as defined in this Ordinance, who is not licensed as a sexually oriented business employee by the Town pursuant to this Ordinance.

(B) Any person who violates sub-section (A) (1) above shall be subject to the forfeiture provisions set forth in Article XV below.

(C) A violation of sub-section (A) (2) above shall be a ground for the suspension of a sexually oriented business license as provided for in Section (IX) of this Ordinance.

(D) No person shall act as an employee, as defined in this Ordinance, on the premises of a sexually oriented business without having secured a sexually oriented business employee license ("employee license") pursuant to this Ordinance.

(E) A violation of this section shall be a ground for the suspension of a sexually oriented business employee license as provided for in Section (IX) of this Ordinance.

### **(IV) APPLICATION FOR LICENSE**

(A) An original or renewal application for a sexually oriented business license shall be submitted to the Town Board or its designee on a form provided by the Town Board. The Town's application may require and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Town to determine whether the applicant meets the qualifications established in this Ordinance.

(B) A filing fee shall be paid at the time of filing the application, as follows: \$250

- (C) An application for a sexually oriented business license shall identify and be signed by the following persons:
- (1) If the business entity is owned by an individual, that individual.
  - (2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than fifty (50) percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed sexually oriented business.
  - (3) If the business entity is owned by a partnership (general or limited), limited liability company, a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners) or members (in the case of a limited liability company); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed sexually oriented business.
- (D) An application for a sexually oriented business license must designate one or more individuals who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this Ordinance, and shall be considered a licensee if a license is granted.
- (E) An application for a sexually oriented business license shall be completed according to the instructions on the application form, which shall require the following:
- (1) If the applicant is:
    - (a) an individual, state the legal name and any aliases of such individual; or
    - (b) a partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or
    - (c) a limited liability company, state the complete name of the limited liability company and all of its members, and provide a copy of the operating agreement and any membership transfer, buy/sell or similar agreements, if any; or
    - (d) a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or
    - (e) a corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all

Officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.

- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
- (3) State whether any applicant has been convicted of a specified criminal activity as defined in this Ordinance, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
- (4) State whether any applicant has had a previous license under this Ordinance or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, or fifty (50) percent or greater owner of a corporation licensed under this Ordinance whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) State whether any applicant holds any other licenses under this Ordinance or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (6) State the location of the proposed sexually oriented business, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.
- (7) State the mailing address and residential address of each applicant and each person signing the application.
- (8) Submit a recent passport-type photograph of each applicant who is a natural person, that clearly shows the applicant's face.
- (9) Submit the fingerprints of each applicant who is a natural person, recorded by a law enforcement agency.
- (10) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business.
- (11) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.
- (12) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.

(13) Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(14) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the Town can determine whether the Ordinance's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance's licensing and permitting requirements.

(15) The information gathered pursuant to the above provisions constitute protected private information and are exempt from Wisconsin's Public Records Act in accordance with Chapter 19, Wisconsin Statutes.

#### **(V) ISSUANCE OF A LICENSE**

(A) Upon receipt of an application for a sexually oriented business license, the Zoning Administrator shall promptly request that the Polk County Sheriff's Department review the information provided in the application concerning the criminal background of the applicant(s) and that the Sheriff's Department transmit the results of its investigation in writing to the Zoning Administrator after completion of the investigation.

(B) Within five (5) days of receipt of an application for a sexually oriented business, the Zoning Administrator shall notify the St. Croix Falls Fire Chief and the Polk County Health Department of such application. In making such notification, the Zoning Administrator shall request that the Fire Chief and Health Department promptly inspect the premises for which the sexually oriented business license is sought to assess compliance with the regulations under their respective jurisdictions.

(C) The Fire Chief shall be asked to provide to the Zoning Administrator a written certification of whether the premises are in compliance with the applicable Fire Regulations within ten (10) days of receipt of notice of the application.

(D) The Zoning Administrator shall commence the inspection of the premises for which a sexually oriented business license is sought promptly upon receipt of the application, and shall complete, within ten (10) days after receipt of the application, a written certification of whether the premises are in compliance with the Town Zoning Ordinance, and the provisions of this Ordinance related to physical characteristics of the premises, and whether the Town has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.

(E) Within twenty-one (21) days after receipt of a completed sexually oriented business license application, the Zoning Administrator shall approve or deny the issuance of a license. The Zoning Administrator shall approve the issuance of a license to an applicant unless he/she determines that one or more of the following findings is true:

- (1) An applicant who is a natural person is under eighteen (18) years of age.
- (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a) (1).
- (3) An applicant has, within the preceding twelve (12) months, been denied a sexually oriented business license by any jurisdiction or has had a license to operate a sexually oriented business revoked by any jurisdiction.
- (4) An applicant has been convicted of a specified criminal activity as defined in this Ordinance.
- (5) The proposed sexually oriented business would violate or fail to be in compliance with any provisions of this Ordinance, the Town Zoning Ordinance, other relevant Town ordinances, or state statute or regulation.
- (6) The application and investigation fee required by this Ordinance has not been paid.
- (7) An applicant is in violation of or not in compliance with any provision of this Ordinance, except as provided in Section (V), sub-section (F) of this section.

(F) If the Zoning Administrator determines that one or both of the following findings is true, the license issued pursuant to this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

- (1) The results of inspections of the premises by the Fire Chief or its designee or the Health Department or its designee indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions.
- (2) An applicant is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(G) A sexually oriented business license shall state on its face the name of the applicant, the expiration date, and the address of the licensed sexually oriented business. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(H) The Zoning Administrator shall advise the applicant in writing within three (3) days of the Zoning Administrator's decision of the reasons for any license denial. If the Town finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply.

## **(VI) EMPLOYEE LICENSE APPLICATION**

(A) An application for an Employee license shall be submitted to the Zoning Administrator on a form provided by the Zoning Administrator. The application may request, and the applicant shall provide, such information as reasonably necessary (including fingerprints) to enable the Town to determine whether the applicant meets the qualifications established in this Ordinance.

(B) An application for an employee license shall be completed according to the instructions of the application form, which shall require the following:

- (1) State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.
- (2) State the applicant's date and place of birth.
- (3) State the applicant's height, weight, and hair and eye color.
- (4) Submit a recent passport sized photograph of the applicant, which clearly shows the applicant's face.
- (5) Submit the applicant's fingerprints, recorded by a law enforcement agency.
- (6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed sexually oriented business.
- (7) State the applicant's present residence address and telephone number.
- (8) State the applicant's present or intended business address and telephone number.
- (9) State the applicant's driver's license number and Social Security number.
- (10) Submit proof that the applicant is at least eighteen (18) years old.
- (11) Provide a statement detailing the sexually oriented business-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a sexually oriented business, in this or any other jurisdiction, and whether the applicant has ever had a sexually oriented business-related license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.
- (12) State whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.
- (13) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the Town can determine whether the Ordinance's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with

those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance's licensing and permitting requirements.

(14) The information gathered pursuant to the above provisions constitutes protected private information and is exempt from Wisconsin's Public Records Act in accordance Chapter 19, Wisconsin Statutes.

## **(VII) ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE**

(A) Upon the filing of a completed application for an employee license, the Zoning Administrator shall issue a license to said applicant immediately.

(B) Within five (5) days of receipt of a completed application for an employee license, the Zoning Administrator shall request that Polk County Sheriff's Department conduct an investigation of the information provided in the application concerning the criminal background of the applicant. The Zoning Administrator shall request that the Sheriff's Department document the results of its investigation in writing within five (5) days of the completion of its investigation and transmit the writing to the Zoning Administrator.

(C) Within ten (10) days after completion of the criminal background investigation of the applicant, the Zoning Administrator shall either affirm the prior issuance of the license or revoke the license. The Zoning Administrator shall affirm the prior issuance of a license to an applicant unless he/she determines that one or more of the following findings are true:

(1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a) (1).

(2) The applicant is under eighteen (18) years of age.

(3) The applicant has been convicted of a specified criminal activity as defined in this Ordinance.

(4) The employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.

(5) The applicant has, within the preceding twelve (12) months, been denied an employee license by any jurisdiction or has had an employee license revoked by any jurisdiction.

(D) If the employee license is revoked, the Zoning Administrator shall advise the applicant in writing within three (3) days of the reason(s) for any such revocation.

## **(VIII) EXPIRATION AND RENEWAL OF LICENSE**

(A) Each license issued pursuant to this Ordinance shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for

renewal shall be made no more than ninety (90) days and no less than twenty-one (21) days before the expiration date. If application is made less than twenty-one (21) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(B) An application for renewal of a sexually oriented business license shall be submitted to the Zoning Administrator on a form provided by the Zoning Administrator. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or such application shall be revised to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.

(C) The Zoning Administrator shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this Ordinance.

(D) The Zoning Administrator shall advise the applicant in writing within three (3) days of the reason(s) for any denial of a license renewal.

(E) An application for renewal of an employee license shall be submitted to the Zoning Administrator on a form provided by the Zoning Administrator. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.

(F) When the Town denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. However, if the Town finds, subsequent to denial, that the basis for the denial of the renewal license has been corrected or abated, the applicant may reapply prior to the expiration of the one year period.

## **(IX) SUSPENSION**

(A) The Town shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee:

- (1) has violated or is not in compliance with any section of this Ordinance; or
- (2) has knowingly allowed an employee to violate or fail to comply with any section of this Ordinance.

(B) The Town shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee or its employee or agent has refused to allow, or has prohibited or has interfered with, an inspection of the licensed sexually oriented business premises as authorized by Section (V), sub-sections (B) – (C) of this Ordinance or any other reasonable inspection.

(C) The Town shall suspend an employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this Ordinance.

(D) The Zoning Administrator shall advise the licensee in writing within three (3) days of the reason(s) for any suspension.

**(X) REVOCATION**

(A) The Town shall revoke a sexually oriented business license or employee license if a cause of suspension under this Ordinance occurs and the license has been suspended two times within the preceding twelve (12) months.

(B) The Town shall revoke a sexually oriented business license if it determines that:

(1) a licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) the licensee(s) failed to comply with any requirement stated in the license, pursuant to this Ordinance, to correct specified deficiencies within 120 days;

(3) a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) a licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;

(5) a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(6) a licensee has knowingly allowed any act of specified sexual activity, as defined in this Ordinance, to occur in or on the licensed premises;

(7) a licensee has been convicted of a specified criminal activity, as defined in this Ordinance, during the term of the license; or

(8) a licensee is delinquent in payment to the Town, County, or State for any taxes or fees that were assessed or imposed in relation to any business.

(C) The Town shall revoke an employee license if it determines that:

(1) the licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) the licensee has knowingly acted as an employee on the premises of a sexually oriented business during a period of time when the licensee's license was suspended; or

(3) the licensee has been convicted of a specified criminal activity, as defined in this Ordinance during the term of the license.

(D) The Zoning Administrator or its designee shall advise the licensee in writing within three (3) days of the reason(s) for any revocation.

(E) When the Town revokes a license pursuant to sub-sections (A), (B)(3) – (7), (C)(2) or (3) above, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.

(F) When the Town revokes a license pursuant to sub-sections (B)(1), (B)(8) or (C)(1) above, the applicant may be granted a license if the basis for the revocation has been corrected or abated and at least thirty (30) days have elapsed since the date the revocation became effective.

## **(XI) APPEAL RIGHTS**

(A) Any denial, suspension, or revocation of a license under this Ordinance may be appealed to the Town Board by written notice within ten (10) days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the Town Board must hold a hearing on the appeal within twenty-one (21) days and must issue a decision affirming or reversing the denial, suspension, or revocation within five (5) days after the hearing. During the time between the date of the denial, suspension, or revocation of a license and the date of the Town Board decision affirming or reversing the denial, suspension, or revocation, the status quo of the license holder or applicant shall be maintained.

(B) In the event that the Town Board denies, suspends, or revokes a new or renewal license under this Ordinance, or any action taken on an appeal that is provided by this ordinance, the applicant may pursue an appeal to the Polk County Circuit Court. The failure of the Town Board to render a decision on the application within the time prescribed in Section (IX), sub-section (A) above shall be considered an affirmance of the denial, suspension, or revocation of the license and the applicant may pursue an appeal to the Polk County Circuit Court. This appeal provision is intended to comply with the requirement for prompt judicial review stated by the United States Supreme Court in *Township of Littleton, Colorado v. Z. J. Gifts D-4* (2004), 541 U.S. 774.

(C) Any licensee lawfully operating a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the Town Board of a decision rendered under this Ordinance and during the entire time required for the court to rule on the appeal pursuant to sub-section (B) above.

(D) Any licensee lawfully acting as an employee in a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the Town Board of a decision rendered under this Ordinance and during the entire time required for the court to rule on the appeal pursuant to sub-section (B) above.

(E) In the event that any judicial review of the denial of a new or renewal license application or the revocation or suspension of a license is still pending thirty (30) days before the expiration date of any license, the licensee may file a renewal license application with the Zoning Administrator pursuant to this Ordinance. In the event that an application for renewal of a license is denied and the applicant seeks judicial review of that denial, the Town has the right to

consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.

(F) If, during the pendency of any appeal pursued under sub-section (B) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the Town has the right to consolidate the appeal pursued under Section (XI), sub-section (B) above for the additional denials, suspensions or revocations with any pending appeal for that same licensee.

## **(XII) TRANSFER OF LICENSE**

(A) A sexually oriented business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a sexually oriented business license shall automatically and immediately revoke that license.

(B) An employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed sexually oriented business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Zoning Administrator within fifteen (15) days of such transfer.

## **(XIII) ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF A SEXUALLY ORIENTED BUSINESS**

(A) Sexual Activity, Live Entertainment and Performances:

(1) No person shall, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(2) Any employee appearing on the premises of a sexually oriented business in a state semi-nudity, as defined by this Ordinance, must be on a stage that is at least twenty-four (24) inches from the floor, and at a distance at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.

(3) All live entertainment and performances in a sexually oriented business must take place on a stage that is at least twenty-four (24) inches from the floor, and at a distance at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.

(4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by the operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this

paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(5) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a nude or semi-nude condition unless the employee, while nude or semi-nude, shall be and remain at least two (2) feet from all patrons.

(6) Employees in a sexually oriented business shall maintain a minimum distance of two (2) feet from areas on the business premises occupied by patrons for a minimum of thirty (30) minutes after the employee appears in a nude or semi-nude condition within view of any patron. This regulation is not intended to prohibit ingress or egress from the premises. It is intended to control illicit sexual contact and reduce the incidents of prostitution occurring in the establishments.

(7) No patron who is not a member of the employee's immediate family shall knowingly touch an employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or semi-nude.

(8) No employee who regularly appears nude or seminude on the premises of a sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow the patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

(9) The provisions of sub-sections (A) (1) – (8) shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to employees.

(10) In addition, sub-sections (A) (1) – (8) shall not apply to live performances in which the patron and employee are separated by an impenetrable barrier such as, but not limited to glass or Plexiglas.

(B) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

(1) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

(a) a valid operator's, commercial operator's, or chauffeur's driver's license; or

(b) a valid personal identification certificate issued by the State of Maine reflecting that such person is eighteen (18) years of age or older.

(C) Hours of Operation. No sexually oriented business shall be or remain open for business between 2:00 a.m. and 8:00 a.m. Monday through Friday, between 2:30 a.m. and 8:00 a.m. on Saturdays, or between 2:30 a.m. and 12:00 p.m. on Sundays.

(D) A sexually oriented business shall be open to inspection by the Town Zoning Administrator, the Town Chairperson, Town Building Inspector, any public safety officer, any police officer, any firefighter, any sheriff deputy and any Wisconsin State Police trooper that has reasonable cause to believe that the licensee or the sexually oriented business is not in compliance with the law, and such inspection shall be allowed at any time the establishment is occupied or open for business and anywhere in the establishment where patrons are allowed. Upon request, the licensee shall make available to the inspector documentation regarding the stock in trade (inventory) of the sexually oriented business and documentation regarding the gross revenues of the sexually oriented business, which documentation shall show how much of the gross revenues are generated by the sale or rental of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities".

(E) No alcoholic beverage or other intoxicant shall be displayed, served, ingested or sold on the premises of any sexually oriented business. No licensee, operator or employee shall be under the influence of any alcoholic beverage or other intoxicant while working at a sexually oriented business. No patron who is under the influence of any alcoholic beverage or other intoxicant shall be allowed to enter any sexually oriented business.

(F) No gambling shall be permitted by any person in any sexually oriented business.

(G) The operator of a sexually oriented business shall be responsible for ensuring that the sexually oriented business is in compliance with all federal, state, and local laws and ordinances, including, without limitation, obscenity, prostitution and cabaret laws. Solicitation and prostitution are prohibited.

(H) No outdoor adult motion picture theater shall have a viewing screen that is visible from any road, street, highway or residence and the premises shall be surrounded by solid fencing at least eight (8) feet in height. All theaters shall comply with Section 134.46, Wisconsin Statutes.

**(XIV) ADDITIONAL REGULATIONS CONCERNING THE LOCATION AND CHARACTERISTICS OF A SEXUALLY ORIENTED BUSINESS**

(A) No sexually oriented business may be located in any of the Town's Zoning Districts (as set forth and described in the Town's Zoning Ordinance) other than the Commercial District.

(B) No sexually oriented business shall be permitted on a site that is less than 1,500 feet from any other site containing a sexually oriented business.

(C) No sexually oriented business shall be permitted on a site that is less than 1,000 feet from any site containing a church, school, public building, library, playground, public park or recreation area, daycare facility.

(D) No sexually oriented business shall be permitted on a site that is less than (i) 2,000 feet from any residentially or transitionally zoned land or (ii) 1,500 feet from any agriculturally zoned land, each as defined in the Town Zoning Ordinance.

- (E) No sexually oriented business shall be permitted on a site that is less than 500 feet from any establishment serving alcoholic beverages.
- (F) No sexually oriented business shall be permitted within the same building, structure or portion thereof that is used for residential purposes or that contains another sexually oriented business.
- (G) All distances contained in this section shall be measured by taking the nearest straight line between the respective lot boundaries of each site.
- (H) The Town Zoning Ordinance, as may be amended from time to time, are hereby incorporated by reference as a part of this article, and any violation of such regulations shall be deemed a violation of this article.
- (I) Any sexually oriented business lawfully operating on the effective date of the ordinance from which this article is derived but in violation of Article XIV of this Ordinance shall be deemed a nonconforming use. No nonconforming use shall be increased, enlarged, extended or altered except to make it a conforming use.
- (J) Any sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of any church, school, public building, public park or recreation area within 1,000 feet of such business, or of any residentially zoned land within 750 feet of such business. However, this subsection applies only to the renewal of a valid license and does not apply to a license application submitted after a license has expired or has been revoked.
- (K) Any existing sexually oriented business on the effective date of the ordinance from which this article is derived shall submit an application for a license pursuant to the provisions of this ordinance and shall comply with all regulations herein within 60 days of the effective date of the ordinance from which this article is derived. Otherwise, such existing sexually oriented business shall cease operations.
- (L) Exterior Portions of Sexually Oriented Business.
- (1) It shall be unlawful for an owner or operator of an sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
  - (2) It shall be unlawful for the owner or operator of an sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.
  - (3) It shall be unlawful for the owner or operator of an sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to an sexually oriented business if the following conditions are met:
    - (a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center; and

(c) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

**(M) Signs.**

(1) Notwithstanding any other Town ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- (a) not contain any flashing lights;
- (b) be a flat plane, rectangular in shape;
- (c) not exceed seventy-five (40) square feet in area; and
- (d) exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

- (a) be a flat plane, rectangular in shape;
- (b) not exceed twenty (20) square feet in area;
- (c) not exceed five (5) feet in height and four (4) feet in width; and
- (d) be affixed or attached to any wall or door of the enterprise.

(6) The provisions of item (a) of subsection (2) and subsection (3) and (4) shall also apply to secondary signs.

(N) Adequate parking in compliance with other Town Ordinances shall be provided at all sexually oriented business and such parking shall be well lighted during business hours.

**(XV) PENALTIES.**

(A) Violations of this ordinance are a nuisance per se. In addition to any other remedy set forth herein (and in other applicable Town ordinances), including, without limitation, license revocation, the Town may seek to enjoin the violation and may seek to abate such violations through applicable civil abatement procedures.

(B) In addition to any other remedy set forth herein (and in other applicable Town ordinances), including, without limitation, license revocation, any person, partnership, limited liability company, corporation, trust or other legal entity who or which violates any of the provisions of this ordinance shall be subject to a forfeiture as provided in the Town's Fees and Penalties Ordinance. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Section 125.12, Wisconsin Statutes.

#### **(XVI) SEVERABILITY CLAUSE**

If any section, sub-section, paragraph or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, paragraphs, and clauses shall not be affected.

## **CHAPTER IX: OPEN SPACE DEVELOPMENT**

### 1.1 Purpose and Scope

Open Space Development is designed to preserve open space and rural character while creating compact neighborhoods that have a strong visual and physical access to the open space. This method of development uses the size and shape of the open space as the central organizing element, rearranging the density on each parcel so that less land is cleared, graded, and turned into driveways, streets, lawns, and houses.

Open Space Development is designed to meet the following purposes:

- 1) Preserving efficient use of the land while maintaining desirable natural features and agricultural land.
- 2) Allow housing to be concentrated on sites that have low agricultural value and/or high housing appeal.
- 3) Create neighborhoods with direct access to open space, distinct identities, and a sense of community.
- 4) Encourage innovation and flexibility in residential development.
- 5) Provide commonly owned open space areas for passive and/or active recreational use by this development, and where applicable the larger community.
- 6) Provide for a diversity of lot sizes, housing choices, and building densities to accommodate more people.
- 7) Preserve scenic views and elements of the Town's Rural character by minimizing views from existing roads.
- 8) Unique characteristics and features of the parcel for the proposed development are strongly considered when granting approval for the development.
- 9) Economic conditions of the developer will not be a consideration in the merits of the development.

### 1.2 Definitions

- 1) Community Garden: Land which is cultivated by the residents of the development for the production of trees, vegetables, fruits, flowers, herbs and grasses for either the use of the residents or to be sold.
- 2) Conservation Easement: An interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of the property including the retention, protection, and maintenance of natural resources, open space, and agriculture.
- 3) Cultural Resource: The historic characteristics of the land, including buildings and landscapes, which provide information regarding the Town of St. Croix Falls and its people
- 4) Homeowners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.
- 5) Open Space: Land used for agriculture, natural habitat pedestrian corridors and/or recreational purposes, that is undivided and permanently protected from future development.
- 6) Open Space Development: A grouping of residential structures on smaller lots than the general zoning districts, leaving some land dedicated as open space.
- 7) Perimeter Road: A road lying outside of and abutting the development parcel.
- 8) Plant Community: A grouping of plants with common environmental requirements living within the landscape, i.e., wetlands, grasslands, boreal forests.
- 9) Protective or Restrictive Covenant: A contract entered into between private parties that constitutes a restriction of the use of a particular parcel of property.
- 10) Resource Inventory: A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.

### 1.3. Application

The Major Subdivision application must contain a resource inventory, yield plan, concept subdivision plan phasing plan and general location map.

- 1) A Major Subdivision application is required for an Open Space Development.
- 2) Open Space Developments are only allowed in the Residential District.
- 3) In addition to the criteria stated in the Town Subdivision Ordinance, the Planning Commission shall consider the following:
  - (A) The open space development is designed to preserve open space and the Town's rural character while creating compact residential neighborhoods.
  - (B) The open space development is designed in accordance with the standards of this Ordinance.
  - (C) The open space development supports the goals and policies of the Town's Comprehensive Plan.
- 4) In addition to the Major Subdivision submission requirements the following items shall be submitted:
  - (A) Resource Inventory

The plan for an Open Space Development shall include a resource inventory, to include the following, mapped at a scale of no less than one inch: 100 feet.

    1. Topographic contours at 2-foot intervals, showing rock outcrops and slopes of more than 15 percent.
    2. Soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock, and suitability for wastewater disposal systems.
    3. Hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales and drainage ways.
    4. Vegetation of the site, according to general cover type (pasture, woodland, etc.), defining boundaries of woodland areas and stand-alone trees with a caliper of more than 18 inches. Vegetative types shall be classified as generally deciduous, coniferous or mixed and described by plant community, relative age and condition.
    5. Current land use and land cover (cultivated areas, paved areas, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
    6. Visual resources, showing views onto the tract from surrounding roads and public areas, as well as views within the tract.
    7. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archeological features.
    8. Context: general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.
  - (B) Yield Plan

The applicant shall submit a "yield plan," showing the maximum number of dwelling units that would be permitted given the minimum lot size and lot widths for conventional subdivisions and other requirements of the Zoning Ordinance and Subdivision Regulations. The yield plan need not be engineered; however, it shall be drawn to scale and it shall identify all the major physical features on the parcel. The minimum lot areas and width for the purposes of calculating a yield plan for each zoning district are in Chapter 3 of this ordinance.
  - (C) Concept Subdivision Plan

One or more open space design plans meeting the intent of this Chapter and including at least the following information:

    1. Open space areas indicating which areas are to be protected.
    2. Boundaries of areas to be developed and proposed general street and lot layout.
    3. Number and type of housing units proposed.
    4. Areas proposed for stormwater management and on- or off-site sewage treatment.
    5. Said plans shall be drawn at a scale of 1 inch = 200 feet.

(D) Phasing Plan

Open Space Development may be phased in accordance with a unified development plan for the entire tract meeting the following requirements:

1. A phasing plan identifying the sequence of development showing approximate areas, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each.
2. The phasing plan shall be made a part of the Major Subdivision and is effective for five (5) years from the date of preliminary plat approval. If final plat approval is not received within five (5) years, the plan shall become null and void.
3. Any common facilities, including golf courses, shall be constructed prior to the sale of any lots and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.
4. As part of the development agreement, a financial guarantee to ensure completion of common facilities, trails and landscaping shall be provided.

(E) General Location Map

1.4. Uses

The following uses are permitted within Open Space Developments. The following uses must meet the standards and criteria specified for those uses, as set forth in and regulated by this Ordinance.

1) Residential.

The following uses are allowed uses in the residential portion of the open space development.

- (A) Single-family Detached
- (B) Multi-family Residential
- (C) Bed and Breakfast
- (D) Accessory Apartment
- (E) Community residence

2) Open Space.

The following uses are allowed uses in the designated open space:

- (A) Conservation (i.e., woodland, meadow, prairie)
- (B) Agricultural, except feedlots
- (C) Equestrian
- (D) Recreational uses and associated parking intended mainly to serve residents of the development.
  1. non-motorized trails (walking, skiing, cycling, horseback riding)
  2. picnic areas
  3. community gardens
  4. composting (for waste generated by residents of the development)
  5. turf areas for informal play
  6. common areas such as greens or squares
  7. ball fields
  8. playgrounds
  9. courts (tennis, basketball, etc.)
  10. swimming pools or beaches
  11. common buildings
- (E) Stormwater Management Facilities
- (F) Sewage Disposal Systems
- (G) Essential Services Utility Substation

3) The following uses are allowed in the designated open space with an additional Special

Exception:

(A) Golf Course

(B) Motorized Trails

(C) Recreational uses available to the public including:

1. ball fields
2. playgrounds
3. courts (tennis, basketball, etc)
4. swimming pools or beaches

#### 1.5. Ownership and Management of Open Space

The designated open space and common facilities may be owned and managed by one or a combination of the following:

- 1) Homeowners' Association
- 2) Non-profit Organization
- 3) The County or another governmental body empowered to hold interest in real property.
- 4) An individual who will use the land for open space purposes as provided by the permanent conservation restrictions.

#### 1.6. Open Space

- 1) The minimum open space required is sixty (60) percent and shall be subject to a permanent conservation easement and used for the purposes as defined by this Ordinance. The conservation easement shall be dedicated to the Town, an acceptable land trustee or other similar organization as approved by the Town.
- 2) The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received.
- 3) A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the Zoning Administrator.

#### 1.7. Homeowners' Associations

A Homeowners' Association shall be established if the open space is owned by a homeowner's association. Membership in the Association is mandatory for all purchasers of homes in the development and their successors.

A Homeowners' Association Agreement, guaranteeing continuing maintenance, shall be submitted to the Town as part of the data required for the Major Subdivision. Association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

- 1) the legal description of the common lands or facilities;
- 2) the restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions;
- 3) a mechanism for resolving disputes among the owners or association members;
- 4) a mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.
- 5) the conditions and timing of the transfer of ownership and control of land or facilities to the Association or to common ownership;
- 6) any other matter the developer deems appropriate.
- 7) the management of collector sewage treatment systems.

#### 1.8. Density Standards

##### 1) Minimum Development Size

To be eligible for Open Space Development, the development must contain the following minimum acreage for the zoning district in which the parcel is located:

(A) Residential (R-1) 20 Acres

(B) Residential (R-2) 20 Acres

(2) The number of density units for the parcel shall be determined in accordance with Section 1.8

(4)(B).

(3) Base Density

(A) The number of density units determined in (1) above may be increased by using the percentage for the zoning district in which the parcel is located:

- 1. R-1.....25%
- 2. R-2.....15%

(B) Apply any bonus density, as specified in Section 1.9(4).

(4) Density Points

The base density may be increased if the development complies with one or more of the following standards. Each standard provides a density increase of 5% over the base density. The maximum bonus permitted is 10%.

(A) Providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.

(B) Reusing historical buildings and structures, including those sites inventoried by the Polk County Historical Society and the State Historic Preservation Office. The Secretary of Interior's Standards for Rehabilitation shall apply.

1.9. Performance Standards

1) General Considerations

(A) For single-family attached and multi-family structures, the maximum number of units per freestanding building is six.

(B) The residential lot shall be large enough to accommodate a house and two-car garage.

(C) All structures shall be setback a minimum of 75 feet from unclassified water bodies.

(D) Multi-family structures shall be setback a minimum of 50 feet from the lot line of a lot designated for single family detached dwelling units.

(E) A maximum of 20% of the residential dwelling units may be multi-family residential.

2) Residential Lot Requirements.

(A) Minimum Lot Size

- 1. R-1.....1 acre
- 2. R-2.....15,000 square feet

(B) Principal Building Setbacks

- 1. Front lot line..... 30 feet
- 2. Side lot line ..... 15 feet
- 3. Rear lot line..... 30 feet

(C) Accessory Building Setbacks

- 1. Side lot line ..... 15 feet
- 2. Rear lot line..... 10 feet

(D) Maximum Lot Coverage 35%

(E) Maximum Building Height 35 feet

(F) All lots shall take access from interior local streets developed as part of the open space development.

(G) Fifty percent of the lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.

(H) Lots shall be oriented around a central focal point. This may be one or more of the following: (The “focal point” ensures that the central feature of the development is always either a natural feature or “designed” open space such as a green or parkway.)

- 1. A central green or square.
- 2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural feature.
- 3. A street designed with boulevards planted with shade trees and with a central “parkway” or median, at least 25 feet wide.

3) Neighborhood Siting Standards

(A) Neighborhoods shall be located to minimize their impacts on the natural, scenic and cultural resources of the site.

- (B) Neighborhoods shall avoid encroaching on rare plant communities or endangered species.
- (C) Fragmentation of open space shall be minimized.
- (D) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels.
- (E) Neighborhoods should be sited to achieve the following goals, to the extent practicable. In cases where impact on one or more of the following resource areas is unavoidable, the impact should be minimized through use of landscaping, topography, or other features.
  - 1. Avoid prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices;
  - 2. Minimize disturbance to woodlands, hedgerows, mature trees or other significant vegetation;
  - 3. Protect scenic views of open land from adjacent roads.
  - 4. Protect existing historic buildings or incorporate them through adaptive reuse
- (F) The maximum number of residential lots permitted in a neighborhood is 50.
- (G) More than one (1) neighborhood may be developed if separated by a clear boundary comprised of a combination of two or more of the following elements: street pattern, marked topographical changes, drainage ways, ponds, wetlands, streams, greenways and woodlands.
- (H) Neighborhoods shall be separated from adjacent residential property by a clear boundary, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainage ways, ponds, wetlands, streams, greenways, and woodlands.

4) Open Space Design

An example of a 100 acre tract in a Residential (R-1) zone, open space requirements are as follows:

- Maximum residential lots and streets.....40 acres
- Minimum total open space.....60 acres
- Minimum open space accessible to and owned by residents....15 acres
- Minimum accessible open space suitable for recreation...3.75 acres

- (A) Open space shall be designated as part of the development. The minimum required open space is based on a percentage of the gross acreage:
  - 1. Residential .....50%
- (B) The required open space shall be undivided and restricted from further development, as specified in Section 1.6.
- (C) The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
  - 1. Parking areas for access to and use of the open space.
  - 2. Buildings or structures if they are accessory to the use of the open space.
- (D) Road rights-of-way may not be located within the required open space area, and shall not be counted towards the required minimum open space. (The intent of these requirements is to ensure that residents can actively use or enjoy a reasonable proportion of the open space.)
- (E) No more than 50 percent of the required open space may consist of unclassified water bodies, ponds, areas within the 100 year floodplain (or high water mark as documented by County or Town records), wetlands, or slopes of greater than 25 percent.
- (F) At least 25 percent of the open space shall be accessible to the residents of the development and shall be owned in common by all residents of the development.
  - 1. At least 25% of the "accessible" open space, shall be suitable for recreational uses such as trails, play fields, or community gardens.
  - 2. A pathway system connecting all parts of those open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.
  - 3. That portion of the open space designated for the location of sewage treatment facilities shall not be included as part of this accessible open space.

5) Street Standards (Roads shall be designed to minimize the visual size and scale of the development and help discourage excessive speeds. Street widths and alignments should be carefully scaled to neighborhood size.)

Neighborhood streets may take the form of a two-way street, a pair of one-way streets on either side of a landscaped median, or a one-way loop street around a small neighborhood green. Streets shall be developed according to the Town of St. Croix Falls Street Requirements that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.

Following is a general description of those requirements:

(A) The applicant must demonstrate that access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.

(B) Streets shall have the following design standards:

1. Right-of-way widths. The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage, trails and walkways, utilities and snow storage. The minimum right-of-way shall be provided in accordance with the following:

Travel Lanes	ADT Less than 250	ADT over 250
One-way roadway	30'	30'
Two-way roadway	60'	60'

2. Roadway widths for local roads shall be determined by the expected average daily traffic (ADT) and shall be within the following ranges:

Travel Lanes	ADT (less than 100)	ADT (100-250)	ADT (over 250)
Two-way roadway	20'-24'	20'-24'	22'-24'
One-Way roadway	11'-13'	11'-13'	11'-13'
(urban sections*)	13'	13'	13'
Shoulder Width	4'	4'	4'

3. Additional Standards:

(A) Design Speed: Minimum 20 miles per hour

(B) Vertical Curves: Minimum 50 feet (when grade difference less than 1%, no curve is needed)

(C) Horizontal Curves: Minimum radius of 125 feet

(D) Road Grades: Maximum grade 8%

(E) Super-elevation: Maximum  $e = 0.04$  feet/feet

(F) Pavement Strength: 7 ton minimum

(G) Clear Zones:

Rural sections: 10 feet from edge of travel lane

Urban sections: 2 feet from face of curb

(H) Bridges: Width shall be traveled way plus 2 feet each side; Design Loading for Structural Capacity HS-20; Sidewalk necessary to maintain pedestrian crossing. (Utilities will be placed underground; either parallel to the sidewalk or under the street.)

(I) Cul-de-sacs: Minimum 30 foot radius

4. Shade trees shall be planted on both sides of the street or placed in clusters based on the standard of five (5) trees for each dwelling unit, these are the minimum substantial plantings, in addition to other understory trees, shrubs, flowers and ground cover deemed appropriate for a complete quality landscape treatment of the site. The planting location of the required trees is flexible in order to accommodate various landscape designs. The required number of trees may be reduced by the Town Board if the Landscape Plan reflects the natural landscape..

5. Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns.

6. Streets that serve as collectors, interconnecting subdivisions and other major traffic generators, shall be designed according to the Town's standards for collector roads.

7. Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widenings shall occur at the nearest intersection.

County Regulations for septic systems will include standards for common systems:

groundwater monitoring, pretreatment, system management, etc.

Alternatives may include:

- (A) Individual septic systems with drainfields located on the individual lot or in adjacent open space areas;
- (B) Individual septic tanks with communal drainfields on individual lots or in open space areas.
- (C) Drainfields may be located partially or completely within open space areas provided that:
- (D) Ground cover of regularly mowed turf or meadows is maintained;
- (E) No agricultural activities are permitted within 50 feet of the drainfield area;
- (F) No trails or other recreational facilities are located in drainfield areas.
- (G) Alternative wastewater treatment and disposal systems that meet all DNR permit requirements.

(6) Sewage and Water Facilities

The use of shared or community wells is encouraged. All Open Space Developments shall be provided with adequate sewage treatment facilities meeting the standards of Polk County's Individual Sewage Treatment Standards Regulations and the permit requirements of the Wisconsin DNR.

(7) Golf Courses

- (A) Golf courses may be located in the open space.
- (B) The golf course shall be regulated by a development agreement that restricts any further development or subdivision of land and requires the land to be retained as open space use if a golf course is no longer used as a golf course.
- (C) The golf course shall be constructed prior to the sale of any residential lots.
- (D) A financial guarantee ensuring completion of the golf course in accordance with the approved plans and permits shall be submitted to the Zoning Administrator.

## CHAPTER X: EFFECTIVENESS

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

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

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

1. **REPEALS.**

By the adoption of this Ordinance Number 1: Zoning

- a. Ordinance Number 1, Zoning: Adopted August 5, 1965 is repealed in its entirety.
- b. Ordinance Number 2, Regulation of Building Construction and for the Appointment of a Building Inspector and Including Setback Regulation and Penalties: Adopted May 25, 1966 is amended only to the extent that the Setback Regulations and Penalties, adopted May 25, 1966 are hereby repealed.
- c. Ordinance Number 4, Regulating Parking and Location of House Trailers, Licensing and Regulating Trailer Camps. Providing for Taxation of Trailers and Providing a Penalty: Enacted May 25, 1966 is repealed to the extent that the later ordinance has created inconsistencies with the earlier ordinance.
- d. Ordinance Number 5, Regulation of the Division and Platting of Land and the Requiring the Installation of Certain Improvements and Penalties: Adopted May 25, 1966, is amended by the enactment of this ordinance, only to the extent that this ordinance has changed the lot sizes required in the various districts.

2. **EFFECTIVE DATE OF THE CHANGES.**

This ordinance, Ordinance Number 1, Zoning and amendments and repeals enumerated in Section B.1 above, will become effective coincidentally with the latest of the required actions listed below.

- a. Enactment by the Town Board, and
- b. Approval by the Polk County Board of Supervisors, and
- c. Publication of the ordinance

(1) In its entirety or

(2) It is made a part of the MUNICIPAL CODE OF THE TOWN OF ST. CROIX FALLS, and a notice is published, to that effect which includes a broad summary of the ordinance and the full text is made available at the Town Clerk's office/home.

Adopted May 12, 1994

Amended March 20, 2001

Amended January 16, 2008

Amended February 18, 2009, by Ordinance 09-01

Amended May 20, 2009, by Ordinance 09-04

Amended October 21, 2009, by Ordinance 09-06

Amended March 17, 2010, by Ordinance 10-01

Amended April 21, 2010, by Ordinance 10-03

Amended August 18, 2010, by Ordinance 10-05

Amended March 16, 2011, by Ordinance 11-02

Amended April 20, 2011, by Ordinance 11-05  
Amended October 19, 2011, by Ordinance 11-10  
Amended November 16, 2011, by Ordinance 11-12  
Amended August 21, 2013, by Ordinance 13-05  
Amended March 18, 2015, by Ordinance 15-03  
Amended June 15, 2016, by Ordinance 16-02  
Amended March 15, 2017, by Ordinance 17-03  
Amended June 20, 2018, by Ordinance 18-02  
Amended October 17, 2018, by Ordinance 18-04  
Amended January 21, 2019, by Ordinance 19-01  
Amended March 20, 2019, by Ordinance 19-02  
Amended October 16, 2019, by Ordinance 19-05  
Amended December 16, 2020, by Ordinance 20-01