

This Code is up to date with all Ordinances passed, through June 16, 2020. Please contact Jodar.lisa@co.calumet.wi.us regarding any discrepancies that may be contained within this Code. For the most up-to-date ordinance information, please contact the appropriate department, with regard to the matter in which you seek ordinance reference.

CODE OF ORDINANCES

CALUMET COUNTY, WISCONSIN

Enacted June 17, 2003

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CALUMET COUNTY CODE

Published by Order of the County Board of Supervisors

OFFICIALS
of the
COUNTY OF
CALUMET, WISCONSIN
AT THE TIME OF THIS CODIFICATION

Merlin Gentz
Chairperson

Wilma Springer
George Holz knecht, Jr.
Brian Leonhardt
David Ballering
Mark H. Gabriel
Patrick Tourville
Robert Stanke
James Lehrer
Bill Barribeau, Vice-Chair
Patrick J. Laughrin
Marilyn Schuh
Donald Sommers
William Scholz
Kurt Hofmeister
Jerry Criter
Alice Connors
Ray Mueller
Peter Dorn
James Stecker
Kenneth Draheim

County Board of Supervisors

John J. Keuler
County Administrator

Melody Buchinger
Corporation Counsel

Beth Hauser
County Clerk

2020-2021

**OFFICIALS
of the
COUNTY OF
CALUMET, WISCONSIN**

Alice Connors
Chairperson

Hope Karth
Merlin Gentz
Emily Voight-Cone
Duaine Stillman
Matthew Budde
Scott Handschke
Pete Stier
Tom Stoffel
Ed Kleckner
Joseph Mueller
Bill Barribeau
Nicholas Kesler
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Mike Hofberger
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Kenneth Irwin
Kenneth Draheim

County Board of Supervisors

Todd Romenesko
County Administrator

Kimberly A. Tenerelli
Corporation Counsel

Beth Hauser
County Clerk

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Designation and Citation of Code.
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Sec. 1-1. Designation and Citation of Code.

The provisions embraced in the following chapters and sections shall constitute and be designated the "Calumet County Code" and may be so cited.

State Law References: Authority to codify, Wis. Stats. § 66.0103.

Sec. 1-2. Rules of Construction and Definitions.

(a) The definitions and rules of construction for this Code shall be as set forth in this section unless such definitions or rules of construction are inconsistent with the manifest intent of the county board or as required by the statutes of the State of Wisconsin.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the County Board may be fully carried out.

Code. The terms "Code" and "this Code" shall mean the Calumet County Code as designated in section 1-1.

County. The terms "the County" and "this County" shall mean the County of Calumet in the State of Wisconsin.

County Board. The term "County Board" shall mean the Board of Supervisors of Calumet County, Wisconsin, unless otherwise provided, the term "Board" means the County Board.

Gender. Pronouns of the masculine gender used in this Code shall refer to persons of either sex, firms, partnerships and corporations.

May. The term "may" shall be construed as being permissive.

Month. The term "month" shall mean a calendar month.

Must. The term "must" shall be construed as being mandatory.

Officers and employees generally. Whenever any officer or employee is referred to by title, such as "County Clerk" or "Sheriff," such reference shall be construed as if followed by the words "of Calumet County."

Owner. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or of the whole or of a part of such building or land.

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The term "personal property" includes every species of property except real property.

Shall. The term "shall" shall be construed as being mandatory.

State. The terms "the state" and "this state" shall mean the State of Wisconsin.

Tenant, occupant. The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or lands, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Wis. Stats., statutes. The abbreviation "Wis. Stats." and the term "statutes" shall refer to the Wisconsin Statutes, as amended.

Year. The term "year" shall mean a calendar year.

(b) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

State Law References: Similar rules of statutory construction, Wis. Stats. §§ 990.001, 990.01.

Sec. 1-3. Fees and Charges Ratified.

All existing fees and charges of the County are expressly ratified and confirmed.

Sec. 1-4. Legislation Not Affected by Code.

(a) Nothing in this Code or in the ordinance adopting this Code shall affect any ordinance, resolution or motion:

- (1) Providing for the width of specific highways.
- (2) Authorizing the sale or purchase of specific chattels or real property.
- (3) Authorizing the execution of any contract.

- (4) Providing for the compensation of any county officer or employee.
- (5) Endorsing, recommending or opposing any state legislation.
- (6) Fees and charges not codified.
- (7) Dealing with the annual budget.
- (8) Providing for an annual tax levy on real estate.
- (9) Providing for an appropriation or transfer of funds.
- (10) Including roads in or excluding roads from the county road system.
- (11) Appointing specific individuals to offices or positions.
- (12) Dealing with bond issues.
- (13) Granting a franchise or special permit.
- (14) That is temporary although general in effect.
- (15) Regarding personnel.
- (16) Regarding County Board procedures.
- (17) Regarding expense reimbursements.
- (18) Regarding County monuments and section corners.
- (19) Adopting or amending a comprehensive land development plan.
- (20) The purpose of which has been accomplished.

(b) The provisions referred to in subsection (a) of this section are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-5. Code Does Not Affect Prior Offenses, Rights, Penalties.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or allowing any use or the continuance of any use of a structure or premises in violation of any ordinance of the County in effect on the date of adoption of this Code.

State Law References: Similar rule of construction for state code, Wis. Stats. § 991.03.

Sec. 1-6. Catchlines of Sections; References to Code; History Notes.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the title of such sections, nor as any part of the section; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

State Law References: Similar rule of construction for state code, Wis. Stats. § 990.001(6).

(b) References in this Code to chapters, articles, divisions or sections are to chapters, articles, divisions or sections of this Code unless stated otherwise.

(c) Editor's notes, cross references and references to the Wisconsin Statutes that appear in footnotes to this Code are for reference purposes only and are not part of this Code.

(d) History notes appearing at the end of sections of this Code are for reference purposes only and are not part of this Code.

Sec. 1-7. Penalty for Violation of Code.

In addition to other legal remedies, unless another penalty is provided in this Code, by state uniform bond/bail schedule or by statutes, any person violating any provision of this Code, or any rule or regulation adopted or issued in pursuance of this Code, or any provision of any code adopted in this Code by reference shall, upon conviction, be subject to a forfeiture of not less than \$10.00 and not more than \$1,000.00 and costs of prosecution. In default of payment of such forfeiture and costs, such person may be committed to the County Jail until such forfeiture and costs are paid, except that, every commitment shall limit the duration of such imprisonment to a definite term not exceeding 90 days.

State Law References: Penalties under county and municipal ordinances, Wis. Stats. §66.0109.

Sec. 1-8. County Uniform Citation.

(a) *Purpose and authority.* The purpose and authority of the County Uniform Citations are as follows:

(1) To expedite the resolution of ordinance violations, the County elects, pursuant to the authority of Wis. Stats. §§66.0113 and 778.25 to use the citation method of enforcement of ordinances including those for which a statutory counterpart exists.

(2) All of the identified ordinances and subsequent ordinances shall be enforced by the citation method. The issuance of a citation shall not preclude the County by an authorized officer from proceeding under another ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order. The County Board shall, in conjunction with enacting subsequent ordinances, establish a schedule of deposits for violations and incorporate such by reference to the schedule contained in this section. The provisions of subsection (h) of this section shall apply to all new ordinances.

(b) *The citation.* The citation shall contain the following as provided in Wis. Stats. §66.0113(1)(b):

(1) The name and address of the alleged violator.

- (2) Factual allegations describing the alleged violation.
- (3) The time and place of the offense.
- (4) The section of the ordinance violated.
- (5) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
- (6) The time at which the alleged violator may appear in Court.
- (7) A statement which in essence informs the alleged violator that:
 - a. A cash deposit based on the schedule established by this section may be made, which shall be delivered or mailed to the Clerk of Courts prior to the time of the scheduled court appearance.
 - b. If a deposit is made, no appearance in court is necessary unless subsequently summoned.
 - c. In the alternative, the citation may indicate that appearance in court is mandatory.
- (8) A citation issued under this section shall be signed by an officer or County employee who has authority to either make arrests or issue ordinance violations under the Code.
- (9) If the alleged violator makes a cash deposit and does not appear in Court, he either will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty, and all assessments imposed by state law, or will be summoned into Court to answer the complaint if the Court does not accept the plea of no contest.
- (10) If the alleged violator does not make a cash deposit and does not appear in Court at the time specified, the Court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment under Wis. Stats. §66.0113(3)(d).
- (11) If the Court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment, or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the Court may summon the alleged violator into Court to determine if restitution shall be ordered under Wis. Stats. §800.093.
- (12) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he read the statement required under subsection (b)(7) of this section, and shall send the signed statement with the cash deposit.

(13) Such other information as may be deemed necessary.

(c) *Effects of citation.* The citation shall have the legal effect specified in Wis. Stats. §§66.0113 and 778.25, and a duly issued citation shall confer subject matter jurisdiction upon the County Circuit Court.

(d) *Persons authorized to issue citations.*

- (1) Any law enforcement officer employed by the County may issue citations with respect to those which are directly related to their official responsibilities.
- (2) Personnel of the Land & Water Conservation Department charged with the responsibility of code administration.
- (3) Park superintendent or designee.
- (4) Others as provided by subsequent ordinance.

(e) *Schedule of Deposits.* The schedule of cash deposits required for the various ordinance violations is established for the use with citations issued under this section. These deposits shall be made to the Clerk of Courts at the County Courthouse, 206 Court St., Chilton, WI 53014. The Clerk shall provide a receipt for each cash deposit received. Cash deposits may be mailed to the Clerk of Courts. Each day that the violation continues shall be considered a new offense.

(1) *Zoning Schedule.*

- a. Private Sewage System Ordinance and Sanitary Code: ***FINE***
 1. Failure to obtain a permit *up to \$200.00*
 2. Discharge sewage to ground surface, to water of the state or, into zones of seasonal saturation *up to \$200.00*
 3. Illegal pumping of sewage from septic tank, soil absorption field or seepage pit, holding tank, grease trap or privy *up to \$200.00*
 4. Illegal installation of a Private Sewage System *up to \$200.00*
 5. Failure to correct a violation *up to \$200.00*
 6. Failure to report holding tank pumping or septic system maintenance reports *up to \$200.00*
 7. All other violations *up to \$200.00*
- b. Comprehensive Zoning Ordinance:
 1. Failure to obtain a Land Use or Conditional Use Permit *up to \$200.00*
 2. Failure to obtain a sign permit *up to \$200.00*
 3. All other violations *up to \$200.00*
- c. Shoreland Zoning Ordinance:
 1. Failure to obtain a Land Use, Conditional Use, or Special Exception Permit *up to \$200.00*
 2. All other violations *up to \$200.00*

- d. Floodplain Zoning Ordinance:
 - 1. Failure to obtain a Land Use, Conditional Use, or Special Exception Permit *up to \$200.00*
 - 2. All other violations *up to \$200.00*

- e. Land Subdivision Ordinance:
 - 1. Failure to obtain approval prior to lot creation *up to \$200.00*
 - 2. All other violations *up to \$200.00*

- f. Wind Energy Facilities Ordinance:
 - 1. All violations *up to \$500.00*

(Ord. No. 2003-20, 12-16-03; Ord. No. 2005-18, 12-20-05.)

(2) *Law Enforcement Schedule.* In addition to the specified, penalties include, where applicable, all Court ordered assessments under statutes. The bond amount for those violations of County ordinances, which are referenced in the State Uniform Bail/Bond Schedule (UB/BS), shall be set consistent with the amounts as determined by Wisconsin Judiciary Conference, as amended from time to time.

a. Bond Schedule: Bodily Security.

Wis. Stats. §	Violation	Fine
940.19	Battery	UB/BS
947.013(1m)(a)(b)	Harassment	UB/BS

b. Bond Schedule: Public Health and Safety.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
254.76	Careless smoking	UB/BS
941.10	Negligent handling of burning materials	UB/BS
941.13	False fire alarms	UB/BS
941.20	Shooting within 100 yards of dwelling	UB/BS
941.23	Carrying concealed weapons	UB/BS
941.237	Carrying handgun where alcohol is sold	UB/BS
941.24	Possession of switchblade	UB/BS
941.295	Possession of Electric Weapon	Up to \$500
941.299	Use laser pointer at law enforcement officer	Up to \$500
941.2965	Restrictions on use of facsimile firearms	UB/BS

c. Bond Schedule: Crimes Against Property.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
943.01	Damage to property (vandalism)	UB/BS
943.017	Graffiti	UB/BS
943.11	Entry into Locked Vehicle	UB/BS
943.215	Absconding without Paying Rent	UB/BS
943.75	Unauthorized Release of Animals	UB/BS
943.13	Trespass to land	UB/BS

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
943.14	Criminal trespass to dwelling	UB/BS
943.15	Entry onto construction site	UB/BS
943.20	Petty theft	UB/BS
943.21	Fraud on a hotel or restaurant keeper	UB/BS
943.24	Issuing worthless checks	UB/BS
943.34	Receiving stolen property	UB/BS
943.37	Alteration of property identification marks	UB/BS
943.46	Theft of cable services	UB/BS
943.47	Theft of satellite programming	UB/BS
943.50	Retail theft -- shoplifting	UB/BS
943.55	Theft of shopping cart	UB/BS
943.61	Theft of library materials	UB/BS
943.70	Computer crimes	UB/BS

d. Bond Schedule: Sex Crimes.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
944.15	Public Fornication	UB/BS
944.17	Sexual gratification	UB/BS
944.20	Lewd and lascivious behavior	UB/BS

e. Bond Schedule: Interference with Law Enforcement.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
941.37	Obstruct rescue or emergency personnel	UB/BS
946.41	Obstructing officers	UB/BS
946.70	Impersonating police officer	UB/BS

<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
14-45	Interference with E911	Up to \$500
14-84	Fourth false alarm in a calendar year	\$50.00
14-84	Fifth or subsequent false alarm in a calendar year	\$100.00
14-85	Cooperation of alarm owner	\$75.00/2nd trip
42-3	Interference with fire alarm systems/fire hydrants	up to \$500.00

f. Bond Schedule: Public Peace.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
167.10(2)	Sale of fireworks	UB/BS
167.10(3)	Possession or discharge of fireworks	UB/BS
945.02	Gambling	UB/BS
945.03	Commercial Gambling	UB/BS
947.01	Disorderly conduct	UB/BS
947.012	Unlawful use of telephone	UB/BS
947.0125	Unlawful use of computerized comm. system	UB/BS
947.04	Drinking in common carriers,	UB/BS
947.06	Unlawful assemblies and their suppression	UB/BS

948.51	Hazing	UB/BS
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County Ord. §	Violation	Fine
42-3	Disorderly conduct: squealing tires or horn blowing	\$50.00
	Throwing or shooting stones or other missiles	\$25.00

g. Bond Schedule: Alcohol.

Wis. Stats. §	Violation	Fine
125.07(1)	Furnish alcohol to underage persons:	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
	Fourth offense	UB/BS
125.07(2)	Sale to intoxicated person	UB/BS
125.07(3)(b)	Permit underage person to enter/loiter on premises	UB/BS
125.07(4)(a)	Procures or attempts to procure alcohol, enters, knowingly attempts to enter, or is on licensed premises; false representation of age (underage person):	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
125.07(4)(b)	Possess/consume alcohol:	
	Under 17 years of age:	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
	17 years of age--20 years of age:	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
	Fourth offense	UB/BS
125.085(3)(b)	Intentionally carries false ID (official state ID only); makes, alters, or duplicates ID; false information on application for ID (underage person):	
	Under 17 years of age:	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
	17 years of age--20 years of age:	
	First offense	UB/BS
	Second offense	UB/BS
	Third offense	UB/BS
	Fourth offense	UB/BS
125.085(3)(a)(1)	Makes, provides, alters, duplicates ID card or other documents (21 years of age or older)	UB/BS
125.085(3)(a)(2)	Fraudulent application for ID card (21 years plus)	UB/BS

125.09(2)	Possess/consume alcohol on school premises and functions (21 years of age or older)	UB/BS
125.09(2)	Possess/consume alcohol on school premises or function (underage person)	UB/BS
125.66(1)	Sale without license	UB/BS
125.68(2)	Permit unlicensed operation on premises without licensed supervision	UB/BS
125.68(4)	Open after hours	UB/BS
All other chapter 125 violations		UB/BS

h. Bond Schedule: Controlled Substances.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
941.315	Possession with intent to inhale/nitrous oxide	UB/BS
961.41	Possession of marijuana (25 gms or less, first violation)	UB/BS
961.573	Possession of drug paraphernalia	UB/BS
961.574	Manufacture or delivery of drug paraphernalia	UB/BS
961.575	Delivery of drug paraphernalia	UB/BS

i. Bond Schedule: Animals.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
29.314(4)	Shine wild animals while possessing weapon	UB/BS
29.314(5)	Shine wild animals after 10:00 p.m.	UB/BS
Chapter 951	Crimes against animals	UB/BS

<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
6-2	Rabies vaccinations requirements	up to \$500.00
6-4	Disposal of carcasses	up to \$500.00
6-5	Livestock on highways	up to \$200.00
6-6	Harboring or keeping a barking dog	up to \$200.00
6-7	Dogs running at large or unlicensed	up to \$100.00

j. Bond Schedules: Traffic.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
Chapters 340—348	Traffic	UB/BS

<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
70-5	Overweight/oversized vehicles trip permit	\$40.00/hr
70-6	Abandoned vehicles	up to \$500.00
70-7	Inline skates on county highways	
	First offense	\$10.00
	Second offense	\$25.00
70-8	Motor vehicles on icebound lakes	up to \$500.00

k. Bond Schedule: Boating.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
30.50--30.80	Boating violations	B/BS

- l. Bond Schedule: ATV.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
23.33	ATV	UB/BS

- m. Bond Schedule: Snowmobiles.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
Chapter 350	Snowmobile	UB/BS

- n. Bond Schedule: Relating to Children.

<i>Wis. Stats. §</i>	<i>Violation</i>	<i>Fine</i>
254.92 134.66	Possession, purchase of tobacco by child	UB/BS

<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
42-4	Truancy:	
	First offense	\$50.00
	Second offense	\$100.00
42-5	Curfew violations:	
	First offense	up to \$100.00
	Second offense	up to \$200.00

- (3) *Parks*. Bond Schedule for Violations of Ordinance No. 1987-06, 1990-8, 1994-2 (County Parks).

<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
46-2 et seq.	Nonregistered person in park study area after closing	\$100.00
42-2	Bands or DJs	\$300.00
46-2	Mountain bike trail violations	\$50.00
46-2	Destroying trees and shrubs	\$300.00
46-2	Pick nuts	\$100.00
46-2	Littering	\$50.00
46-2	Improper sewage disposal	\$50.00
46-2	Unauthorized use of dumpsters	\$50.00
46-2	Cave vandalism	\$300.00
46-2	Persons in cave after closing	\$50.00
46-2	Firearms/weapons	\$300.00
46-2	Hunting prohibited	\$300.00
46-2	Pet control	\$30.00
46-2	Horses off path	\$100.00
46-2	Sled and tube hill violations	\$30.00
46-2	Cross county trail violations	\$25.00
46-2	Bicycles on trails at Ledgeview	\$100.00
46-2	Off trails at Ledgeview	\$100.00
46-3	Vehicles off roads	\$100.00
46-3	ATVs prohibited	\$100.00

46-3	Snowmobiles prohibited	\$100.00
46-4	Parking violations	\$5.00
46-4	Boat launch parking violations	\$60.00
46-4	Trailer parking in harbor violations	\$30.00
46-4	Parking RV off pads	\$100.00
46-4	Unauthorized overnight parking	\$50.00
<i>County Ord. §</i>	<i>Violation</i>	<i>Fine</i>
46-5	Failure to pay for dump station fees	\$25.00
46-6	Harbor violations	\$60.00
46-7	Fire control	\$100.00

(f) *Procedure.* The provisions of Wis. Stats. §66.0113(3) on the violator's options and the procedures on any default is adopted and incorporated in this subsection by reference.

(g) *Outstanding unpaid forfeitures.* The provisions of Wis. Stats. §66.0115 on outstanding unpaid forfeitures are adopted.

(Ord. No. 76, 12-20-1977; Ord. No. 1979-5, 2-18-1979; Ord. No. 1979-4, 8-21-1979; Ord. No. 1983-1, 4-19-1983; Ord. No. 1987-15, §§ 1.0--8.0, 2-16-1988; Ord. No. 1987-13, 12-15-1987; Ord. No. 1990-15, 3-18-1991; Ord. No. 1990-5, 7-17-1990; Ord. No. 1994-19, 12-20-1994; Ord. No. 2002-8, 10-17-2002)

Sec. 1-9. Nonexclusivity.

(a) *Other ordinances.* Adoption of this section does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) *Other remedies.* The issuance of a citation shall not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order relating to the same or any other matter. The proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

Sec. 1-10. Amendments to Code.

(a) All ordinances, resolutions or motions passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code; or in the case of repealed chapters, sections and subsections or any part of a chapter, section or subsection, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from affected reprinted pages; and such subsequent provisions as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of them until such time as this Code and subsequent provisions numbered or omitted are readopted as a new code by the Board.

(b) Amendments to this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "Section _____ of the Calumet County Code is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in this Code is to be added, the following

language may be used: "The Calumet County Code is hereby amended by adding a new section _____, that reads as follows:" The new section shall then be set out in full as desired.

Sec. 1-11. Effect of Repeal of Ordinance, Resolution, etc.

(a) When any ordinance, resolution or motion repealing a former ordinance, resolution, motion, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, resolution, motion, clause or provision unless it shall be so expressly provided.

(b) The repeal of an ordinance, resolution or motion shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance, resolution or motion repealed.

State Law References: Similar rule of statutory construction, Wis. Stats. §§ 990.03, 991.03.

Sec. 1-12. Severability of Parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

State Law References: Similar rule of statutory construction, Wis. Stats. § 990.001(11).

Chapter 2

ADMINISTRATION*

* **Editors Note:** The County Records Retention Policy as updated from time to time is on file in the Clerk's office.

Cross References: Any ordinance authorizing the execution of any contract saved from repeal, § 1-4(a)(3); any ordinance for fees and charges not codified saved from repeal, § 1-4(a)(6); any ordinance dealing with the annual budget saved from repeal, § 1-4(a)(7); any ordinance regarding County Board procedures saved from repeal, § 1-4(a)(16); Local Emergency Planning Committee (LEPC), § 14-3; Administration to E 911 system, § 14-43; Health and Human Services, ch. 34; Aging and Disability Resource Center and Committee, § 34-4; Law Enforcement, ch. 38; Taxation, ch. 66; Utilities, ch. 74; County Administration, § 74-61 et seq.

Article I. In General

Sec. 2-1. Adoption of State Law Provisions.

Sec. 2-2. Appointments and Terminations of County Department Heads; Authority.

Sec. 2-3. Use of County-Owned Property for Private Functions and Events.

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Sec. 2-131. Legal Custodians for Public Record; Fees Authorized.

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ARTICLE I.

IN GENERAL

Sec. 2-1. Adoption of State Law Provisions.

The Board of Supervisors will self-organize under Wis. Stats. §59.03(1).
(Ord. No. 1990-7, §1, 8-21-1990)

Sec. 2-2. Appointments and Terminations of County Department Heads; Authority.

The authority to appoint and terminate department heads is established by state statutes as follows:

Position	Appointment	Termination
Clerk of Court	Elected	Circuit Court Judge for cause Wis. Stats. § 17.09(2)
Corporation Counsel	Wis. Stats. § 59.42(1)(b) County Administrator	Wis. Stats. § 59.42(1)(b) County Administrator with Concurrence of County Board
County Clerk	Elected	County Board for cause Wis. Stats. § 17.09(1)
County Conservationist	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 92.09; County Administrator	Wis. Stats. § 17.10(6) County Administrator
County Sheriff	Elected	Governor for cause Wis. Stats. § 17.09(1)
County Treasurer	Elected	County Board, for cause, two-thirds County Board Wis. Stats. § 17.09
Director of Land & Water Conservation and Sanitation	Wis. Stats. § 59.18(2)(b); County Administrator	Wis. Stats. § 17.10(6) County Administrator
District Attorney	Elected	Governor for cause Wis. Stats. § 17.06(3)
Emergency Management Director	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 323.14; County Administrator	Wis. Stats. § 17.10(6) County Administrator
Family Court Commissioner	Wis. Stats. § 757.68(1); Circuit Court Judge	Wis. Stats. § 17.10(4) Circuit Court Judge (at pleasure)
Finance Director	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 59.47; County Administrator	Wis. Stats. § 17.10(6) County Administrator
Highway Commissioner	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 83.01(c); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Human Resource Director	Wis. Stats. § 59.18(2)(b); County Administrator.	Wis. Stats. § 17.10(6) County Administrator
Position	Appointment	Termination
Health and Human Services Director	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 46.23; Wis. Stats. §251.06(4)(a) County Administrator.	Wis. Stats. § 17.10(6); Wis. Stats. § 17.16 for cause; County Administrator Wis. Stats. § 46.23(6m)
Information Services Director	Wis. Stats. § 59.18(2)(b); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Maintenance Coordinator	Wis. Stats. § 59.18(2)(b); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Medical Examiner	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 59.34(1); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Nursing Home Administrator	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 46.19 County Administrator	Wis. Stats. § 17.10(6) County Administrator
Park Superintendent	Wis. Stats. § 59.18(2)(b); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Register of Deeds	Elected	Governor for cause Wis. Stats. § 17.09(5)
Register in Probate	Wis. Stats. § 851.71; Circuit Court Judge	Circuit Court Judge (at pleasure)
UW-Extension office chair	Wis. Stats. § 59.18(2)(b); County Administrator	Wis. Stats. § 17.10(6) County Administrator
Veterans Service Officer	Wis. Stats. § 59.18(2)(b); Wis. Stats. § 45.43(1)(b); County Administrator.	Wis. Stats. § 17.10(6) County Administrator
The authority to appoint and terminate the County Administrator is provided by state statutes as follows:		
County Administrator	Wis. Stats. § 59.18(1) majority of County Board	County Board if County Administrator's conduct becomes unsatisfactory Wis. Stats. § 59.18(7)

Sec. 2-3. Use of County-Owned Property for Private Functions and Events.

(a) *Applicability.* For purposes of this section, the term "County-owned property" shall include all land and buildings owned by the County, and property leased by the County to any individual or organization, the use of which property shall be governed by the applicable lease agreement, excepting the Parks.

(b) *Use of County-owned property.* Any person, organization or group may use County-owned property for the purpose of governmental business, public meetings for the free discussion of public questions, civic activities or for activities of broad public purpose subject to the procedures set forth in this section, and provided further that such use:

- (1) Does not interfere with the prime function of the facility;
- (2) Does not unduly burden the County;
- (3) Is not a hazard to the safety of the public nor detrimental to the facility;
- (4) Does not expose the County to the likelihood of expenses and/or damages which cannot be recovered; and
- (5) Is appropriate to the physical context of the facility.

(c) *Consent required.* The person, organization or group requesting use of County-owned property shall obtain permission from the County Administrator.

(d) *Alcohol.* The sale, possession or consumption of alcohol beverages on County-owned property is prohibited. However, the County Board may, upon a majority vote, grant an exception to this prohibition for special events.

(e) *Tobacco products.* Use of tobacco products is prohibited in any enclosed building as provided by Wis. Stats. §101.123.

(f) *No endorsement implied.* Utilization of the County-owned property does not imply approval or approbation by the County of the group or activity. Likewise, the refusal by the County to permit use of the County-owned property shall not be interpreted as disapproval or censure of any organization.

(g) *County not obligated to provide support.* The granting of permission to use the County-owned property does not obligate the County to furnish any applicant with any service or utilities or render any support with personnel, equipment or supplies. The County may furnish such assistance as it, in its sole discretion, determines necessary. The County reserves the right to inspect any equipment or apparatus brought in for a public meeting, event or activity, and to limit or prohibit the use of such items which might affect the safety or normal operation of the facility.

(Ord. No. 2004-02, 4-20-04; Ord. No. 2012-02, 7-17-12)

Sec. 2-4. Sale of County-Owned Property to Employees.

(a) Applicability. For purposes of this section, the term “County-owned property” shall include all property owned by the County.

(b) Sale of County-owned tangible property. All employees are prohibited from participating in Calumet County online auctions, excluding real estate. In addition, family members or friends are prohibited from bidding on behalf of an employee.

(c) Sale of County-owned real estate property. All Treasurer’s office employees or relatives of such employees, a prohibited from bidding on real estate foreclosed or otherwise obtained by the County, when a reserve price is set. All other employees may bid during the first round of the auction, regardless if a reserve price is set.

If there is no successful bidder with a reserve price, once the reserve price is lifted, all employees are then eligible to bid on real estate.

(Ord. No. 2017-13, 3-20-18)

Secs. 2-5--2-30. Reserved.

ARTICLE II.

COUNTY BOARD

Sec. 2-31. Rules and Procedures.

Every new County Board shall, at the organizational meeting, promulgate and adopt Board rules and procedures which shall be in effect until modified. Such rules and procedures shall address, at a minimum, structure, committee assignments, vacancies, duties and responsibilities, rules of procedure and any other matter regarding County administration.

Sec. 2-32.Redistricting.

(a) Every decade, or as required by Wis. Stats. §59.10, the board shall promulgate supervisory districts, presently numbering 21.

Secs. 2-33--2-60. Reserved.

(Ord. 2014-11, 2-17-15; Ord. 2017-05, 9-19-17.)

ARTICLE III.

OFFICERS AND EMPLOYEES*

* **Cross References:** Any ordinance providing for the compensation of any County officer or employee saved from repeal, § 1-4(a)(4); any ordinance appointing specific individuals to offices or positions saved from repeal, § 1-4(a)(11); any ordinance regarding personnel saved from repeal, § 1-4(a)(15); administrator of private water systems, § 74-63.

Sec. 2-61. County Administrator.

(a) *Office created.* The County hereby creates the position of County Administrator pursuant

to Wis. Stats §59.18. The County Administrator is appointed by the majority vote of the County Board.

(b) *Duties.*

- (1) The County Administrator is the chief administrative officer of the County and is responsible to the County Board. The position reports to the Administrative Services Committee and is charged with providing general administrative support to the County Board and Departments.
- (2) The County Administrator shall take care that every County ordinance and state and federal law is observed, enforced and administrated within the County.
- (3) The County Administrator shall coordinate and direct all administrative and management functions of the County Board, not otherwise vested by law in committees, boards, commissions or in the elected officers.
- (4) The County Administrator shall hire all Department Heads and supervisory personnel of the County, except those elected by the people or appointed by Elected Officials. The County Board waives its right to confirm appointments provided the County Administrator has the concurrence of the chair of the home committee and the County Board Chair. Any Department Head appointed by the County Administrator may be removed as set forth in section 2-2.
- (5) The County Administrator shall appoint the members of the boards and commissions, subject to the confirmation of the County Board.
- (6) The County Administrator shall annually, and otherwise as necessary, communicate to the County Board the condition of the County, and recommend such matters to the Board for its consideration, as necessary.
- (7) The County Administrator shall prepare and submit the annual budget to the Board.
- (8) The County Administrator shall review and sign all contracts for goods and services after review by the Corporation Counsel and Finance Director.

(Res. No. 2000-10, 5-16-2000; Ord. No. 2000-12, 9-26-2000; Ord. No. 2003-23, 3-16-04)

State Law References: Similar provisions, Wis. Stats. §59.18.

Sec. 2-62. Corporation Counsel.

(a) *Office created.* The County hereby creates the position of Corporation Counsel pursuant to Wis. Stats. §59.42.

(b) *Duties.* The duties of the Corporation Counsel shall be as established by statute and as otherwise prescribed by the County Board.

(c) *CHIPS/TPR.* The Corporation Counsel is responsible for the prosecution of juvenile actions under Wis. Stats. §48, including children in need of protection and services, delinquencies, and termination of parental rights. (Per Resolution #2018-26, passed on December

12, 2018, effective September 1, 2019.)
(Res. No. 1989-46, 12-19-1989; Res. No. 2018-26, 12-12-18)
State Law References: Similar provisions, Wis. Stats. §59.42.

Sec. 2-63. Department of Health and Human Services Director.

(a) *Office created.* The County hereby creates the position of Director of the Department of Health and Human Services pursuant to Wis. Stats. §46.23(6).

(b) *Duties.*

(1) The duties of the Director of Health and Human Services shall be as established by statute and as otherwise prescribed by the county board.

(2) The Director of Health and Human Services shall be designated the Director of the Aging and Disability Resource Center as authorized by Wis. Stats. §46.82(5).
(Ord. No. 1990-1, 4-17-1990; Res. No. 2002-11, 7-16-2002; Ord. No. 2010-22, 3-15-2011)

Sec. 2-64. County Surveyor.

(a) *Appointment.* The County Administrator shall biennially, in January, appoint a County Surveyor who shall perform the duties of that office pursuant to the provisions of statute, state administrative code, and this section. The Surveyor is not required to be a resident of the County. The County Surveyor may, as he deems necessary, formally designate one or more Deputy County Surveyors to assist him as authorized within this section. Such deputy shall also be a State-Registered Land Surveyor, and have the same qualifications to practice pursuant to this section as the County Surveyor, and his designation shall be made known to the Board of Supervisors, by the Surveyor filing a certificate thereof with the Clerk.

(b) *County Board Committee.* The Planning, Zoning, and Farmland Preservation Committee shall have jurisdiction over the activities and function of the County Surveyor's office.
(Ord. No. 1995-12, §§1--9, 12-19-1995)

Sec. 2-65. Finance Director; Position; Duties.

(a) The position of Finance Director, as created by Resolution 1989-29, dated September 21, 1989, and as allowed by the provisions of Wis. Stats. §59.47, is reestablished and affirmed.

(b) The position shall include, as a minimum, the following duties and responsibilities, with salary and personnel to detail a job description:

(1) Review and establish financial systems in all County departments, including specific procedures being completed by department employees, and approve all changes, modifications and enhancements to financial systems.

(2) Approve the design, testing and implementation of any automated financial recordkeeping system being purchased or written for use in all County departments.

(3) Monitor compliance with prescribed financial recordkeeping procedures, including timeliness of completion of procedures.

- (4) Directly supervise the preparation of all state and federal grant applications and budgets from all departments and supervise the preparation of claims for reimbursement and other required grant financial reports.
- (5) Participate in and approve the hiring of and training of employees who work with financial systems of the County.
- (6) Examine and approve all claims presented for payment.
(Ord. No. 1996-6, §§1, 2, 7-16-1996)

Secs. 2-66--2-100. Reserved.

ARTICLE IV.

FINANCE*

* **Cross References:** Taxation, ch. 66.

Sec. 2-101. Ratified.

All funds heretofore established by the County are expressly ratified and confirmed by the Board.

Sec. 2-102. Assessing Service Fee on Worthless Checks.

(a) Pursuant to Wis. Stats. §59.51, the County imposes a fee of \$30.00 on all persons, firms, corporations or other organizations which submit worthless checks or other order for payment of money in payment of any fee, tax or other charge legally imposed by any office, official, employee or officer acting on behalf of the County. Such charge is the approximate cost of processing a worthless check by the County.

(b) The \$30.00 charge may be imposed by any office, official, employee or officer acting on behalf of the County on a person, firm, corporation or other organization who submits a check or other order for payment of money which is worthless, regardless of the intent of the person, firm, corporation or other organization that submits such worthless check or other worthless order for payment of money.

(c) The levying of such charge does not preclude the person, firm, corporation or other organization issuing the worthless check from being subject to forfeiture proceedings pursuant to the County Section 42-2(a)(3) or criminal proceedings pursuant to Wis. Stats. §943.

(Ord. No. 1991-4, §§1, 2, 4-16-1991; Ord. No. 2000-11, 10-30-2000; Ord. No. 2005-25, 3-21-2006.)

Sec. 2-103. Overpayments and Underpayments.

(a) Pursuant to Wis. Stat. §59.54(24), all County Departments, the Register of Deeds, Clerk of Circuit Court, County Clerk, Treasurer and Sheriff, may retain overpayments of fees, licenses, and similar charges when the overpayment is \$5 or less, unless such refund is specifically requested in writing.

(b) Pursuant to Wis. Stat. §59.54(24) underpayments of not more than \$5 may be waived when the administrative cost of collection would exceed the amount of underpayment.

(Ord. No. 2014-1, 4-15-14.)

Secs. 2-104--2-130. Reserved.

ARTICLE V.

PUBLIC RECORDS

Sec. 2-131. Legal Custodians for Public Record; Fees Authorized.

- (a) *Statement of policy.* In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this County that all citizens are entitled to the greatest possible information regarding the affairs of government, and the official acts of those officers and employees who represent them.
- (b) *Designation of legal custodian; Elected Officials.* Each Elected Official is the legal custodian of his records and the records of his office. All open record requests shall be submitted to the Elected Official at 206 Court Street, Chilton, WI 53014. The hours of operation are Monday through Friday, 8:00 a.m. to 4:30 p.m.
- (c) *Designation of legal custodian; all other offices.* Each Department Head shall be designated the legal custodian for all open records requests.
- (d) *Designation of County Clerk; all offices* The County Clerk shall receive copies of all agendas, attachments and minutes from all County committee meetings, including closed session meetings.
- (e) *Limitations upon access of public records.* Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under this ordinance, except that any portion of that record which contains public information is open to public inspection. Any information not subject to disclosure shall be deleted from the record before it is released.
- (f) *Fees.* The custodian of records may impose a fee upon the requestor of a copy of a record, which may not exceed the actual, necessary and direct cost of reproduction and transcription, photographing and photographic processing of the record, unless a fee is otherwise specifically established or authorized to be established by law. The custodian of records may impose a fee upon a requestor for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more. The custodian of records may impose a fee upon a requestor for the actual, necessary and direct cost of mailing or shipping of any copy of photograph of a record, which is mailed or shipped to the requestor.
- (1) The custodian of records may provide copies of a record without charge or at a reduced charge where the custodian determines that waiver or reduction of the fee is in the public interest.
- (2) The custodian of records may require prepayment by a requestor of any fee or fees imposed under this subsection if the total amount exceeds \$5.

(Ord. No. 2000-11, § 1, 10-30-2000; Ord. No. 2001-10, § 1, 10-29-2001; Ord. No. 2002-7, 9-17-2002; Ord. No. 2003-19, 12-16-03; Ord. No. 2004-05, 7-20-04, Ord. No. 2005-05, 6-21-05; Ord. No. 2005-25, 3-21-2006; Ord. No. 2009-12, 1-19-2010; Ord. No. 2011-10, 1-24-12; Ord. No. 2012-02, 7-17-12; Ord. No. 2012-4, 8-21-12; Ord. No. 2016-02, 5-17-16.)

Sec. 2-132. Marriage License Provisions.

- (a) *Marriage License Fee.* The County Clerk, pursuant to Wis. Stats. §765.15, shall charge \$100.00 for a marriage license. Pursuant to Wis. Stats. §765.08(2), the Clerk is authorized to charge an additional fee of \$25 for any marriage licenses issued less than 5 days after application.

(b) *Domestic Partnership Fee.* The County Clerk, pursuant to Wis. Stats. §770.17 shall charge \$100.00 for each declaration of domestic partnership issued or certificate of termination of domestic partnership issued. Pursuant to Wis. Stats. §770.07, the Clerk is authorized to charge an additional waiver fee of \$25 for domestic partnerships issued less than 5 days after application.

(c) *Certified Birth Certificate.* Each applicant must produce a certified copy of their Birth Certificate, regardless of age. If a certified Birth Certificate is unattainable, other satisfactory documentary proof of the requisite facts may be presented in lieu of the Birth Certificate, pursuant to Wis. Stats. §765.09(3)(b).

(Ord. No. 2001-11, § 1, 10-29-2001, Ord. No. 2004-04, 7-20-04, Ord. No. 2007-09, 8-21-07, Ord. No. 2009-04, 7-21-2009; Ord. No. 2018-05, 9-19-18)

Chapters 3--5

RESERVED

Chapter 6

ANIMAL CONTROL*

* **Cross References:** Environment, ch. 18; standards for animal waste storage, §18-1; health and sanitation, ch. 30.

Sec. 6-1. Title.

Sec. 6-2. Purpose.

Sec. 6-3. Authority.

Sec. 6-4. Administration.

Sec. 6-5. Application.

Sec. 6-6. Definitions.

Sec. 6-7. Rabies Control.

Sec. 6-8. Evidence of Immunization.

Sec. 6-9. Dog License Required.

Sec. 6-10. Unlicensed Dogs and Animals Running at Large.

Sec. 6-11. Dangerous Animals Regulated.

Sec. 6-12. Harboring or Keeping Barking Dogs.

Sec. 6-13. Statutory Offenses Adopted.

Sec. 6-14. Mistreating Animals.

Sec. 6-15. Providing Proper Food and Drink to Confined Animals.

Sec. 6-16. Providing Proper Shelter.

Sec. 6-17. Commercial Animal Establishment.

Sec. 6-18. County Humane Society.

Sec. 6-19. Delivery.

Sec. 6-20. Notification.

Sec. 6-21. Records.

Sec. 6-22. Impoundment Fee.

Sec. 6-23. Abatement Orders.

Sec. 6-24. Each Day a Separate Offense.

Sec. 6-25. Maximum Amount Allowed for Claims for Damages to Certain Domestic Animals.

Sec. 6-26. Disposal of Carcasses.

Sec. 6-27. Livestock on Highways.

Sec. 6-28. Shining Wild Animals.

Sec. 6-1. Title. This chapter may be referred to as the animal control ordinance.

Sec. 6-2. Purpose. This ordinance is created for the purpose of:

- (a) establishing and enforcing an effective rabies control program within Calumet County;
- (b) designating a dog impoundment facility and establishing fees for impoundment of stray dogs; and
- (c) creating an effective and efficient manner of enforcing laws relating to control of animals.

Sec. 6-3. Authority. This ordinance is enacted under the authority of sections 59.54(6), 59.54(20) and 95.21(9) and chapters 173 and 174, Wisconsin Statutes.

Sec. 6-4. Administration.

- (a) This chapter is to be administered by the Sheriff's Office.
- (b) The corporation counsel's office shall prosecute all violations of this ordinance and shall advise the agencies entrusted with administration of this ordinance on matters of law relating to this ordinance.
- (c) The Calumet County Administrator is hereby authorized to appoint persons working under the supervision of the Sheriff's Office as humane officers, subject to county board

confirmation.

Sec. 6-5. Application. No provision of this ordinance shall apply to any village or town in Calumet County, which has both a municipal court and a more restrictive provision in an animal control ordinance.

Sec. 6-6. Definitions. As used in this chapter, the following words have the meanings as indicated:

- a) “Animal” includes every: Warm blooded creature, except a human being, Reptile, Amphibian, Fish
- b) Animal At-Large: An animal shall be deemed to be at-large when off the property of the owner and not under restraint or control.
- c) Animal Exhibition: Any spectacle, display, act, or event, other than circuses and county fairs, in which animals are used.
- d) Animal Shelter: Any facility operated by a humane society, or Calumet County, or its authorized agents, for the purpose of impounding and caring for animals held under the authority of this ordinance or state law.
- e) Commercial Animal Establishment: Means any pet shop, grooming shop, kennel, cattery, riding stable, or animal exhibition, and shall exclude any pound operated by municipality, humane society animal shelter, or veterinary facility. Notwithstanding the foregoing, the provisions of this ordinance shall be applicable to a veterinary facility if the same is engaged in any activities associated with a pet shop, grooming shop, kennel, or cattery.
- f) Cruel: means causing unnecessary or excessive pain or suffering or unjustifiable injury or death.
- g) Confined: Restriction of an animal at all times by the owner, or his agent, to an escape-proof building or other enclosure.
- h) Domestic Animal: Any animal, which normally can be considered tame and kept by humans as a work animal, food source, or as a pet.
- i) Dwelling Unit: A building, or portion thereof, designed or used exclusively for residential purposes.
- j) Exotic Domestic Animal: Any animal, which is not native to Wisconsin and may have been domesticated.
- k) Farm Animal: means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.
- l) Grooming Shop: A commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.
- m) Health Officer: The Calumet County Health Officer as defined in Chapter 30 of the Calumet County Code of Ordinances, or a duly designated representative.
- n) Humane Officer: A person appointed under section 173.03 of the Wisconsin Statutes and section 4(c) of this ordinance.
- o) Impoundment: The confinement of an animal in a department-approved, supervised facility, such as a veterinarian’s kennel, commercially operated kennel or the county Humane Society designated under section 18 of this ordinance.
- p) Isolation Facility: Shall mean the municipal animal shelter or veterinarian clinic as approved by the Sheriff’s Office. Such isolation facility shall be equipped with a cage or pen which isolates the animal from other animals.
- q) Kennel or Cattery: Any premises wherein any person engages in the business of boarding, breeding (more than one litter per year), buying, letting for hire, or selling dogs/cats (buying or selling more than three adult dog/cats per year).
- r) Law Enforcement Officer: has the meaning assigned under section 165.85(2)(c) of the

Wisconsin Statutes.

- s) Officer: Any officer, local health officer, as defined in Wis. Stats. §250.01(5), humane officer, warden, an employee designated by the department or other person designated by the county.
- t) Owner: The owner, custodian, or person having charge, care or custody of an animal.
- u) Permit: Includes the otherwise unregulated right to keep an animal not covered by a requirement for a municipal license or permit.
- v) Pet Shop: Any person, partnership, or corporation, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that buys, sells, or boards any species of animal, but does not include an animal shelter or veterinarian hospital (or clinic).
- w) Owner: includes any person who owns, harbors, or keeps, or controls an animal. Any animal shall be deemed harbored if it is fed or sheltered and if it is not a wild animal.
- x) Render Sterile: Refers to a surgical procedure that has been performed on an animal by a veterinarian that renders it incapable of siring or bearing offspring, includes spaying and neutering.
- y) Restraint: Any animal secured by a leash, lead, or under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.
- z) Riding Stable: Any place that has available for hire or riding any horse, pony, donkey, mule, or burro.
- aa) Veterinarian: Has the meaning designated under section 89.02(7) of the Wisconsin Statutes.
- bb) Veterinarian Hospital (or Clinic): Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.
- cc) Vicious Animal: Means any of the following:
 - Any animal with the propensity, tendency, or disposition to attack, cause injury, or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing, snapping, barking, or snarling in a threatening manner.
 - Any animal which has attacked a human being or another domestic animal without provocation.
 - Any animal owned or harbored primarily, or in part, for the purpose of animal fighting, or any animal trained for animal fighting.
- dd) Warden: As designated under Wis. Stats. 24.01(11).
- ee) Wild Animal: Any live monkey or other non-human primate, raccoon, skunk, fox, wolf, wolf hybrid, poisonous snake or any snake exceeding three feet in length, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal, which is normally found in the wild state.

Sec. 6-7. Rabies Control.

- (a) *Rabies vaccination required for dogs.*

(1) *Requirement for vaccination.* Except as provided in Wis. Stats. §174.054, the owner of a dog shall have the dog vaccinated against rabies by a veterinarian at no later than five months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into the County after the dog has reached five months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought into the County, unless the dog has been vaccinated as evidenced by a current Certificate of Rabies Vaccination from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date that the immunization expires as stated on the Certificate of Vaccination or, if no date is specified, within three years after the

previous vaccination.

(2) *Issuance of certificate of rabies vaccination.* A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Department stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccine administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the center for disease control of the U.S. Department of Health and Human Services.

(3) *Copies of certificate.* The veterinarian shall keep a copy of each Certificate of Rabies Vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

(4) *Rabies vaccination tag.* After issuing the Certificate of Rabies Vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(5) *Tag to be attached.* The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors, to a dog securely confined in a fenced area or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this subsection do not apply to a dog which is not required to be vaccinated under subsection (a)(1) of this section.

(6) *Duplicate tag.* The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the Certificate of Rabies Vaccination. The veterinarian shall then indicate the new tag number on the Certificate and keep a record in the file.

(7) *Cost.* The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a Certificate of rabies vaccination and the delivery of a rabies vaccination tag.

(b) *Reporting Required.*

(1) The owner of any animal, other than a dog or cat, which is suspected of having bitten a person, of being infected with rabies or of having had contact with a rabid animal, or any other person having such information, shall report that fact as soon as possible to the Public Health Officer.

(2) If owner of any dog or cat, which is suspected of having bitten a person, or being infected with rabies or of having had contact with a rabid animal, or any other person having such information, shall report that fact as soon as possible to a Law Enforcement Officer.

(c) *District quarantine.*

(1) *Dogs confined.* If a district is quarantined for rabies, all dogs within the district shall be kept securely confined, tied, leashed or muzzled. Any dog not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The County Clerk wholly or partly within the quarantine district shall promptly post in at least three public places in the County notices of quarantine furnished by the Department for posting.

(2) *Exemption of vaccinated dog from district quarantine.* A dog which is immunized currently against rabies as evidenced by a valid Certificate of Rabies Vaccination or other

evidence is exempt from the district quarantine provisions of subsection (c)(1) of this section if a rabies vaccination tag or substitute tag is attached to the dog's collar.

(d) *Compliance with Quarantine Order. Quarantine or sacrifice of an animal suspected of biting a person or being infected or exposed to rabies.*

(1) *Quarantine or sacrifice of dog or cat.* An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner, which avoids damage to the animal's head.

The owner of any dog or cat which is suspected of biting a person, of being infected with rabies or of having been in contact with a rabid animal, shall obey the lawful orders of any officer quarantining the dog or cat pursuant to the authority of sections 95.21(4) and (5), Wis. Stats.

(2) *Sacrifice of other animals.* An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies. Except as provided in Wis. Stats. §95.36, if an animal of a species raised primarily to produce food for human consumption is killed under this subsection, the owner is eligible for an indemnity payment in an amount equal to the indemnity provided under Wis. Stats. §95.31(3). If the decision is made by another officer, the indemnity shall be paid from the dog license fund.

(3) *Sacrifice of a dog or cat.* An officer may order killed or may kill a dog or cat if the owner of the dog or cat violates subsection (e)(1), (e)(2) of this section.

(4) Exception for law enforcement dogs.

a. In this paragraph, "law enforcement agency" has the meaning given in s. 165.83(1)(b).

b. The quarantine requirements in par. (1) does not apply to a dog that is used by a law enforcement agency and that bites a person while the dog is performing law enforcement functions if the dog is immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence. The law enforcement agency shall make the dog available for examination at any reasonable time.

(e) *Quarantine of dog or cat.*

(1) *Delivery to isolation facility or quarantine on premises of owner.* An officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible, but no later than 24 hours after the original order is issued, or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2) *Health risk to humans.* If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten days after the incident occurred. In this subsection, the term "supervision of a veterinarian"

includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) *Risk to animal health.*

- a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.
- b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) *Exemption.* Quarantine and enforcement shall be under the direction of a trained individual with the Calumet County Sheriff's Office, using written protocols. Unusual cases will necessitate consultation with the veterinary advisor.

Sec. 6-8. Evidence of Immunization. No dog license shall be issued to any person owning a dog except upon presentation of evidence that the dog has been currently immunized against rabies.

Sec. 6-9. Dog License Required.

(a) Every owner of a dog over the age of five (5) months shall obtain a dog license for the dog as required by state statute.

(b) The owner of a dog shall securely attach the tag, which is furnished at the time of issuance of the dog license, to a collar which in turn shall be kept on the dog at all times except when provided otherwise by state statute.

(c) Pursuant to Wis. Stats. §174.07(3)(c), the collecting official may retain an amount for each license issued as compensation for the service, if not a full-time municipal employee. If the collecting official is a full-time, salaried municipal employee, this compensation shall be paid into the treasury of the town, village or county.

Sec. 6-10. Unlicensed Dogs and Animals Running at Large.

(a) An animal is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.

(b) A dog is considered to be untagged if a valid license tag is not attached to the collar which is kept on the dog whenever the dog is outdoors, unless the dog is securely confined in a fenced area.

(c) No person shall allow their animal to run at large or, if a dog, be untagged.

Sec. 6-11. Dangerous Animals Regulated.

(a) *Purpose and intent.* It is hereby declared that regulation of dangerous animals is a matter of public interest pertaining to the health, safety and welfare of residents of Calumet County. It is further declared that owning, keeping or harboring of dangerous animals is a public nuisance.

(b) *Authority.* This ordinance is enacted under the authority of section §59.03 of the Wisconsin Statutes.

(c) *Applicability.* This ordinance shall apply in the unincorporated areas of Calumet County.

(d) *Impoundment of biting or attacking animal.*

1. The Public Health Department or Law Enforcement Officer shall have the power to summarily and immediately impound an animal whenever there are reasonable grounds pursuant to sub. (f) to believe that the animal is a dangerous animal. The animal may remain impounded during the entire determination process. If the animal is determined to be dangerous, it shall remain impounded until the owner has complied with all restrictions outlined by the department and found in sub. (h) or until such time as the department determines that the animal may be safely returned to the owner. Any law enforcement officer or humane officer may enter and inspect private property to enforce the provisions of this section. The owner of the animal shall be liable to the County for the costs and expenses of impounding and keeping said animal, unless the department fails to declare the animal dangerous or the department determination is ultimately overturned by administrative review or a reviewing court.

2. In lieu of impoundment, if there was no tearing of flesh or multiple wounds by the animal and the animal is currently immunized against rabies, or if the animal species is at low risk for transmitting this or other diseases, the department may permit the animal to be confined at the owner's residence provided that the owner complies with conditions set forth by the department.

3. The owner or custodian of an animal confined under sub. 2 above shall immediately notify the department if said animal is loose, unconfined, has attacked or bitten or injured another animal or has attacked, bitten or injured a human being, or has died. The animal shall not be sold or given away during the impoundment period.

(e) *Determination.* The department shall investigate situations in which there are reasonable grounds to believe an animal is dangerous. Reasonable grounds to believe an animal is dangerous are that the animal:

1. has attacked, bitten or injured another domesticated animal or human being engaged in a lawful activity;

2. has without provocation and off the property of its owner, chased, confronted or approached a person in a menacing fashion such as would put an average person in fear of attack;

3. has been trained for fighting or attack and is being handled, kept or maintained in a manner that poses a threat to public health and safety; or
4. has acted in any manner that poses a threat to public health and safety.

(f) *Declaration of dangerous animal.* The department, after considering appropriate evidence, may declare any animal to be a dangerous animal. The department shall make a reasonable attempt to personally notify the owner of the pendency of the department's investigation and shall notify the owner in writing of its determination. Mailing a copy of the determination to the owner's last known address and posting in accordance with approved department policy shall satisfy this notice requirement.

(g) *Dangerous animal disposition.*

1. It shall be unlawful for any person to own, possess, harbor or keep any animal declared by the department to be dangerous, except as allowed in (h) below.
2. Any animal declared by the department to be a dangerous animal shall be humanely destroyed, removed from the County or placed under restrictions as set forth in sub. (h) and in department policies. The Humane Officer shall issue an order authorizing the destruction, removal or restriction of the animal within two (2) days after the time for appeal as provided in sub. (j) has passed without notice of appeal being filed.
3. Any animal declared by the department to be dangerous, if not already impounded by the department, shall be immediately surrendered to the department upon order of the Human Officer, and it is the duty of the department to take up and impound any such animal.

(h) *Dangerous animal restrictions.* Any owner of an animal that has been declared dangerous and placed under restrictions must comply with the restrictions set forth below as well as any additional restrictions imposed by the department. The owner must provide documentation to the department of compliance with these restrictions. Said documentation must be provided within thirty (30) days of the animal being declared dangerous.

1. The owner of the animal must provide written proof from a licensed veterinarian that the animal has been spayed or neutered.
2. The owner must provide written proof from a licensed veterinarian that a microchip has been placed in the animal so that the animal can be easily identified. The microchip must contain the following information:
 - a. the name of the animal,
 - b. the name of the owner, and
 - c. the following language "Dangerous Animal, contact Calumet County Humane Officer/Sheriff's Office at "920.849.2335"
3. The owner must provide written proof from a licensed veterinarian that the animal is current with rabies vaccinations.
4. The animal must be in compliance will all license requirements.

5. The owner must post signs no smaller than eight (8) inches by eleven (11) inches, made of metal or plastic, bearing the wording "Warning Dangerous Animal" or "Beware of Dog", in lettering no smaller than three (3) inches high. These signs shall be posted at each entrance to the building in which the dangerous animal is kept and at each entrance through a fence and at such location as to be viewable from the public right-of-way to ensure adequate warning and visibility to anyone approaching said building and fence.

6. When outside but still on the property of the owner or caretaker, the dangerous animal must be supervised by a competent adult and physically restrained at all times to prevent the animal from leaving the property. If the department determines that the animal may be kept in a secure kennel or pen, hereinafter referred to as "structure", and not under the direct supervision of an adult, the department may require that the structure be constructed under some or all of the following guidelines:

- a. the structure shall be constructed of strong metal fencing to prevent the animal from exiting on its own volition;
- b. the structure shall be secure on all sides and have a secure top attached;
- c. the structure shall have a secure bottom or floor attached to the sides of the structure or the sides of the structure shall be embedded in the ground no less than two (2) feet;
- d. the structure shall be kept locked at all times with a key or combination lock;
- e. the structure shall provide adequate light, ventilation and shelter from the environment for the animal;
- f. the structure shall be maintained in a clean and sanitary condition; and
- g. the structure must be in compliance with all other building and zoning ordinances.

7. While off the owner's property, the dangerous animal shall be muzzled and leashed at all times. The muzzle must be made in a manner that will not cause injury to the animal but that will prevent it from biting any person or animal. The leash shall be attached to a secure collar that is of sufficient strength to restrain the animal. The leash shall be no longer than four (4) feet in length and must be secured by and under the direct control and supervision of a competent adult.

8. The owner shall allow the department to take four (4) photographs depicting the animal and owner as outlined below:

- a. one (1) photograph showing a close view of the animal's entire face, so that the animal is recognizable;
- b. one (1) photograph showing the animal's entire left side of its body, including its legs and tail;
- c. one (1) photograph showing the animal's entire right side of its body, including its legs and tail; and
- d. one (1) photograph showing the owner, so that the owner is easily identifiable.

9. Prior to a dangerous animal being sold or given away, the current owner must provide the name, address and telephone number of the proposed new owner to the department. Prior to taking physical custody of the dangerous animal, the new owner must comply with all requirements of this ordinance and any other restriction the

department determines to be appropriate to ensure the public's safety.

10. To ensure compliance with this ordinance, the owner or caretaker of a dangerous animal shall allow the department, on an annual basis and at any other reasonable time determined by the department, the opportunity to inspect the property where the dangerous animal is kept.

(i) *Subsequent determination and penalty.*

1. The department may make a new determination if an owner fails to comply with the terms, conditions or restrictions imposed by sub. (h).

2. The failure of any person to comply with any term, condition or restriction imposed by the department is a violation of this ordinance.

(j) *Administrative review.*

1. The owner or any person aggrieved by a determination of the department declaring any animal to be a dangerous animal may appeal such determination to the Protection of Persons and Property Committee by filing a notice of appeal stating the grounds therefor with the Sheriff within seven (7) days of the date of mailing of the department's declaration under sub. (f) above. Committee review pursuant to this procedure is required prior to seeking court review. Failure to obtain board review shall be deemed a full and complete waiver of the right to any additional review of the determination.

2. If an appeal is timely and properly filed, the board shall schedule a hearing on whether to affirm, conditionally affirm or reject the determination within thirty-two (32) days, but not sooner than five (5) days, and shall make reasonable efforts to notify the owner, bite or attack victims and their representatives, if any, witnesses and other interested parties of such hearing and the opportunity to present evidence and testimony to the board. The Committee shall, within a reasonable period of time after the hearing, issue its decision in writing and serve a copy of the same by first class mail upon the owner and all parties requesting the same.

(k) *Appeals to circuit court.* Any person aggrieved by a determination of the Protection of Persons and Property Committee under sub. (j) may appeal such determination to the circuit court by writ of certiorari within ten (10) days of notification of the Committee's determination.

(l) *Prosecution.* An investigation or determination under this section shall not prohibit the county from prosecuting the same owner for other animal control violations relating to the same animal or another animal.

(m) *Violation.* The failure or neglect of any person to comply with any lawful order of the department issued pursuant to this section shall constitute a violation of this ordinance.

Sec. 6-12. Harboring or Keeping Barking Dogs. No person shall keep or harbor any dog which habitually barks, howls or yelps to the great discomfort of the peace and quiet. Such dogs are hereby declared to be a public nuisance.

Sec. 6-13. Statutory Offenses Adopted. The provisions of chapter 951 of the Wisconsin

Statutes are adopted by secs. 1-8, 14-17 and 24.

Sec. 6-14. Mistreating Animals. No person may treat any animal, whether belonging to himself or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research pursuant to section 174.13 of the Wisconsin Statutes, lawful actions of a law enforcement or humane officer, or normal and accepted veterinary practices.

Sec. 6-15. Providing Proper Food and Drink to Confined Animals. No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with sufficient supply of food and water as prescribed in this section.

- (a) Food. The food shall be of sufficient quantity and nutritive value to maintain the animals in good health.
- (b) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the good health and well-being of the animal.

Sec. 6-16. Providing Proper Shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

- (a) Indoor standards. Minimum indoor standards of shelter shall include:
 - 1. Ambient temperatures, which shall be compatible with the health of the animal.
 - 2. Ventilation for indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (b) Outdoor Standards. Minimum outdoor standards of shelter shall include:
 - 1. Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or confined, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight.
 - 2. Shelter from inclement weather.
- (c) Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the good health and well-being of the animal.
- (d) Dogs. If a dog is tied or confined unattended outdoors, a moisture-proof and wind-proof shelter of suitable size to accommodate the dog shall be provided.
- (e) Space requirements. Minimum space requirements for both indoor and outdoor enclosures shall include:
 - 1. Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - 2. Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

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

Sec. 6-17. Commercial Animal Establishment.

(a) Any person who keeps or operates a commercial animal establishment shall annually, apply to the County Clerk for a permit for the keeping or operating of such commercial animal establishment, and shall pay a permit fee equal to the amount of a multiple dog license for the permit year (number of dogs x individual license fee). This section shall not apply in municipalities having their own commercial animal establishment licensing.

(b) A permit may be issued upon the successful inspection by a humane officer. Before any permit may be issued the applicant must comply with any county, state, and federal requirements. No person who has been convicted of cruelty to animals within 20 years from date of application shall be issued a commercial animal establishment permit. If the applicant has withheld or falsified any information on the application, the County shall refuse to issue a permit.

(c) The County may revoke any permit, after conducting a hearing, if the person holding the permit refuses or fails to comply with this ordinance, or any law governing the protection and keeping of animals. Any person whose permit is revoked shall within ten days thereafter humanely dispose of all animals owned, kept, or harbored under this permit, and no part of the license or permit fee shall be refunded. A receipt from an animal shelter, veterinarian or other individual must be obtained as proof of proper disposal.

(d) It shall be a condition of the issuance of any permit, that a humane officer or designee shall be permitted to inspect all animals and the premises where the animals are kept at any time, and shall, if permission for such inspection is refused, cause the permit of the refusing owner to be revoked.

(e) Each holder of a commercial animal establishment permit shall take reasonable care to release for sale, trade, or adoption only animals, which are free of disease, injuries, or abnormalities. Any law enforcement or humane officer may request an examination by a veterinarian. The following shall deem an animal unfit for sale or release:

1. Obvious signs of infectious diseases, to include distemper, hepatitis, leptospirosis, rabies or other similar diseases.
2. Obvious signs of parasitism including but not limited to: mange, fleas, lice, ticks, ringworm.
3. Obvious fractures or congenital abnormalities affecting general health of the animal.

(f) All commercial animal establishments shall comply with the following standards:

1. All animals shall be displayed in a healthy condition, or if ill, removed from display and shall be given appropriate treatment immediately.
2. All animals shall be quartered, and the quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.
3. There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Litter and/or bedding material shall be changed as often as necessary for the

health and well-being of the animal. There shall be adequate ventilation to prevent an odor nuisance.

4. Feces shall be removed from pens, perches, enclosures and cages as often as necessary to prevent unsanitary conditions and odor nuisance.
5. All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting and shall have secure latches in good repair. Each cage must be of sufficient size that the animal will have room to stand, turn and stretch out to its full length without touching the sides, top of the enclosure, or cage. Wire or wire mesh is an unacceptable surface for dogs or cats to be confined on.
6. The floors and walls of any room in which animals are kept shall be covered with impervious, smooth, surfaces and shall be kept in a clean and sanitary condition.
7. The premises shall be kept free of insect and rodent infestations. Food supplies shall be stored in rodent –proof containers.
8. Water. There shall be hot water available for cleaning purposes. Fresh drinking water shall be available to all species at all times. All water containers shall be mounted so the animal cannot easily turn them over, and all water containers shall be removable for cleaning.
9. Feeding. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over or defecate or urinate in the same, and shall be removable for cleaning.
10. Fish. The water temperature shall be maintained at a temperature that is healthful to the species.
11. Shade. Shade from the direct rays of the sun shall be provided for all animals.
12. Birds. Each bird must have sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages must be cleaned every day and cages must be disinfected when birds are sold. Parrots and other large birds shall have separate cages from smaller birds.
13. Record Keeping. Every permit holder shall make, keep and maintain systems of records or forms on animals acquired and disposed of as prescribed in this section. These records or forms shall be made available for inspection by any law enforcement officer or humane officer or any representative of the Sheriff's Office. These records or forms must be maintained on the premises of such commercial animal establishment for immediate inspection.
14. Acquisition and disposition of animal. Each permit holder shall maintain records which fully and correctly disclose a *description* of the animal, the name and address of the buyer or seller, whether paid for or not, and the date of acquisition and disposition.

Sec. 6-18. County Humane Society. The County of Calumet shall designate appropriate facilities for unwanted animals or stray animals.

Sec. 6-19. Delivery.

(a) Any person who captures an untagged dog or any dog running at large shall notify the humane officer, Sheriff's Office, or deliver the dog to the Humane Society.

(b) Any person coming upon any stray animal shall notify the humane officer, Sheriff's Office, or the Humane Society, or deliver the same to the Humane Society or other appropriate shelter.

Sec. 6-20. Notification. The Humane Society shall take steps to determine and to notify the owner of an animal delivered to the Human Society, in the manner required by law.

Sec. 6-21. Records.

- (a) The Humane Society shall keep such records of dogs as are required by law.
- (b) With respect to other stray or unwanted animals, the Humane Society shall maintain a record showing the date of delivery to the Humane Society, any attempts to determine the ownership of the animal, the posting of notices, appraisals requested and made, and compliance with the state statutes relating to stray animals.

Sec. 6-22. Impoundment Fee.

- (a) There is hereby established an impoundment fee of \$35.00 for each stray animal placed in the Humane Society.
- (b) The impoundment fee shall be in addition to the daily boarding fee of \$20.00 for the first day and a daily fee thereafter that reflects the actual expenses of the County, as set forth in the annual budget.
- (c) The impoundment fee and daily boarding fee shall be paid by the owner of the animal except in cases where the owner is unknown.
- (d) The owner of an animal which has been impounded under this ordinance and who has not paid either the impoundment or boarding fees may be proceeded against in the name of the county and in the manner provided for in a civil action, for the amount of the fees plus any direct collection costs incurred by the county.

Sec. 6-23. Abatement Orders.

- (a) The Humane Officer or any law enforcement officer is hereby designated and authorized, pursuant to sec. 173.03(2) of the Wisconsin Statutes, to affirm, modify, or withdraw abatement orders issued under sec. 173.11 of the Wisconsin Statutes .
- (b) Any person named in an abatement order may appeal such order to the Protection of Persons and Property Committee within 10 days of service of the order. The notice of appeal must state the grounds for the appeal with specificity. The Committee shall schedule a hearing to be held within ten days of the receipt of the notice of appeal, unless the appellant agrees to a later date. The Committee shall make reasonable efforts to notify the appellant, the officer issuing the abatement order, and any other interested party of the hearing and the opportunity to present evidence and testimony at the hearing. The hearing shall be informal in nature. Within ten days after the hearing, the Committee shall determine whether to affirm, modify and affirm, or withdraw the abatement order and shall issue its decision in writing and serve it upon the appellant and other interested parties.
- (c) Any person adversely affected by a decision under sub. (b) may seek judicial review by commencing an action in circuit court within 30 days after the date of the decision.

Sec. 6-24. Each Day a Separate Offense. Each day a violation exists shall constitute a separate violation.

Bond Schedule: Animals.

Wis. Stats. §	Violation	Fine
29.314(4)	Shine wild animals while possessing weapon	UB/BS
29.314(5)	Shine wild animals after 10:00 p.m.	UB/BS
Chapter 951	Crimes against animals	UB/BS
Code 6-7	Rabies vaccinations requirements	Up to \$500
Code 6-26	Disposal of carcasses	Up to \$500
Code 6-27	Livestock on highways	Up to \$200
Code 6-12	Harboring or keeping a barking dog	Up to \$200
Code 6-10	Animals running at large or unlicensed	Up to \$100

Sec. 6-25. Maximum Amount Allowed for Claims for Damages by Dogs to Certain Domestic Animals.

(a) The maximum amount that may be allowed for a claim for damages by dogs to domestic animals, including loss of fair market value, injury or death, shall be limited to \$1,000.00 per domestic animal, as defined in Wis. Stats. §174.001(2g), and any amendments thereto.

(b) All owners of animals that are injured and/or killed by a dog shall apply for compensation for claims for damages, pursuant to Wis. Stats. §174.11, and the procedure for application.

Sec. 6-26. Disposal of Carcasses Excluding Roadkill.

(a) No person shall deposit or throw any animal carcass into or onto any stream, lake, swale or public highway.

(b) No person shall deposit, leave or permit to be deposited or left, any dead animal, which is exposed in such a manner as to be reached by dogs or wild animals for a longer period than 24 hours during the months of April to November, or 48 hours during the months of December to March.

Sec. 6-27. Livestock on Highways. No owner or keeper of livestock shall allow livestock to run on a highway at any time, except to go from one farm parcel to another.

Sec. 6-28. Shining Wild Animals.

(a) Except as otherwise specifically provided in this chapter, all provisions of Wis. Stats. §29.314, as amended from time to time, are hereby adopted by reference.

(b) Pursuant to Wis. Stats. §29.314(6), no person may use or possess with intent to use a light for shining wild animals from 10:00 p.m. to 7:00 a.m., 365 days per year. This section does not apply to the shining of raccoons or foxes as expressly permitted by Wis. Stats. §29.314(5)(b)(2).

(Ord. No. 1993-5, §§1--3, 7-27-1993; Ord. No. 1999-15, §1, 12-21-1999, Ord. No. 1997-4, §§ 1, 2, 11-3-1997, Ord. No. 2002-8, 10-17-2002, Ord. No. 1979-4, 8-21-1979, Ord. No. 2002-8, 10-17-2002, Ord. No. 1979-4, 8-21-1979, Ord. No. 2019-04.

Chapters 7--9

RESERVED

Chapter 10

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Environment, ch. 18; Floods, ch. 26; Health and Sanitation, ch. 30; Solid Waste, ch. 54; Streets, Sidewalks and Other Public Places, ch. 58; Subdivisions, ch. 62; Utilities, ch. 74; Waterways, ch. 78; Zoning, ch. 82.

Article I.

Sec. 10-1--Reserved.
Sec. 10-2. Fair Housing Ordinance.
Sec. 10-3--10-26. Reserved.

Article II. Construction Site Erosion Control

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Sec. 10-28. Purpose.
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Sec. 10-38. Permitting Requirements, Procedures and Fees.
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Sec. 10-43. Fee Schedule.
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Article III. Post-Construction Stormwater Management

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Sec. 10-51. Authority.
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ARTICLE I.

Section 10-2. Fair Housing Ordinance.

(a) The County of Calumet recognizes its responsibilities under Section 106.50, Wisconsin Statutes, and endorses the concepts of fair and open housing for all persons and prohibition of discrimination therein.

(b) The Calumet County hereby adopts Section 106.50 Wisconsin Statutes, and all subsequent amendments thereto.

(c) The officials and employees of Calumet County shall assist in the orderly prevention and removal of all discrimination in housing within the County of Calumet by implementing the authority and enforcement procedures set forth in Section 106.50, Wisconsin Statutes.

(d) The County Clerk shall maintain forms for complaints to be filed under Section 106.50, Wisconsin Statutes, and shall assist any person alleging a violation thereof in the County of Calumet to file a complaint thereunder with the Wisconsin Department of Workforce Development, Equal Rights Division, for enforcement of Section 106.50, Wisconsin Statutes.

(Ord. 2003-12, 9-23-03).

ARTICLE II.

CONSTRUCTION SITE EROSION CONTROL

Sec. 10-27. Construction Site Erosion Control Ordinance for the County of Calumet, Wisconsin.

Sec. 10-28. Purpose.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the State in Calumet County.

Sec. 10-29. Statutory Authorization.

(a) This ordinance is adopted under the authority granted by §59.693, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under §59.69, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in §59.693, Wis. Stats., §59.69, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of Calumet County.

(c) Calumet County hereby designates the Calumet County Land & Water Conservation Department or their designee to administer and enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under §§281.16 and 283.33, Wis. Stats.

(2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

Sec. 10-30. Findings of Fact.

Calumet County finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the State in the County.

Sec. 10-31. Applicability and Jurisdiction.

(a) Applicability.

(1) This ordinance applies to the following land disturbing construction activities except as provided under sub. (2):

A. A construction site, which has 4,000 square feet or greater of land disturbing construction activity.

B. A construction site, which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.

C. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with s. NR 103.08(1m), Wis. Adm. Code.

D. Land disturbing construction activity that includes the construction of one- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in one-acre or more of land disturbance.

(2) This ordinance does not apply to the following:

A. Land disturbing construction activity that includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125, Wis. Adm. Code.

B. A construction project that is exempted by federal statutes or regulations from the requirement to have a National Pollutant Discharge Elimination System Permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.

C. Nonpoint discharges from agricultural activity areas.

D. Nonpoint discharges from silviculture activities.

E. Mill and crush operations.

(3) Notwithstanding the applicability requirements in paragraph (1), this ordinance applies to construction sites of any size that, in the opinion of the Land & Water Conservation Department, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter off of a construction site or that endangers property or public safety.

(b) Jurisdiction. This ordinance applies to land disturbing construction activity on construction sites located within the unincorporated areas of Calumet County.

(c) Exclusions. This ordinance is not applicable to:

(1) activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of District Attorney, which is subject to the State Plan Promulgated or a Memorandum of Understanding entered into under §281.33 (2), Wis. Stats.

(2) any town which has adopted an ordinance under Wis. Stat. §60.627(2)(b).

Sec. 10-32. Effective Date.

This ordinance shall be in force and effect October 1, 2008.

Sec. 10-33. Specific Words and Phrases.

Agricultural Activity Area. The part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of vill, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling, pond construction, wetland restoration and similar practices. The agricultural activity area does not include the agricultural production area.

Agricultural Production Area. The part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

Average Annual Rainfall. A calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

Best Management Practice or BMP. Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

Business Day. A day the Land & Water Conservation Department is routinely and customarily open for business.

Cease and Desist Order. A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Common Plan of Development or Sale. A development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different

schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, Certified Survey Maps, and other developments.

Construction Site. An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.

Development. Residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of Land. The creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.

Erosion. The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion and Sediment Control Plan. A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction activities.

Extraterritorial. The unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final Stabilization. Land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Land Disturbing Construction Activity or Disturbance. Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the State. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

Maximum Extent Practicable or MEP. A level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

Performance Standard. A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit. A written authorization made by the Land & Water Conservation Department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the State.

Pollutant. The meaning given in §283.01(13), Wis. Stats.

Pollution. The meaning given in §281.01(10), Wis. Stats.

Protective Area. The meaning given in Sec. 10-59(c)(5) of the Calumet County Post-Construction Stormwater Management Ordinance.

Land & Water Conservation Department. Calumet County Land & Water Conservation Department or its designee.

Responsible Party. Any person or entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

Runoff. Stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment. Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate Storm Sewer. A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (a) Is designed or used for collecting water or conveying runoff.
- (b) Is not part of a combined sewer system.
- (c) Is not draining to a storm water treatment device or system.
- (d) Discharges directly or indirectly to waters of the State.

Site. The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Stop Work Order. An order issued by the Land & Water Conservation Department which requires that all construction activity on the site be stopped.

Technical Standard. A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Waters of the State. The meaning given in §281.01(18), Wis. Stats.

Sec. 10-34. Technical Standards.

(a) Design Criteria, Standards and Specifications. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Technical standards and other guidance identified within the Calumet County Construction Site Erosion Control and Post-Construction Stormwater Ordinance Reference Guide. The Reference Guide is available for review in the Land & Water Conservation Department or online at <http://www.co.calumet.wi.us/index.aspx?nid=195> .

(b) Other Standards. Other technical standards not identified or developed in sub. (a), may be used provided that the methods have been approved by the Land & Water Conservation Department.

(c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

Secs. 10-35. -- 10-36. Reserved.

Sec. 10-37. Performance Standards.

(a) Responsible Party. The responsible party shall implement an Erosion and Sediment Control Plan, developed in accordance with Sec. 10-42 that incorporates the requirements of this section.

(b) Plan. A written Erosion and Sediment Control Plan shall be developed in accordance with Sec. 10-42 and implemented for each construction site.

(c) Requirements. The Erosion and Sediment Control Plan shall meet the following minimum requirements to the maximum extent practicable:

(1) BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows:

A. For construction sites with 1 acre or greater of land disturbing construction activity, reduce the total suspended solids load by 5 tons per acre per year, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed the 5 tons per acre per year sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

Note to Users: Soil loss prediction tools such as the Revised Universal Soil Loss Equation 2 (RUSLE2) that estimate the sediment load leaving the site under varying land and management conditions may be used to show compliance with the sediment performance standard.

B. For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load using BMPs from the Calumet County Construction Site Erosion Control and Post-Construction Stormwater Reference Guides. These sites are not required to satisfy a numeric performance standard.

(2) Notwithstanding par. (1), if BMPs cannot be designed and implemented to reduce the sediment load by 5 tons per acre per year, the plan shall include a written and site-specific explanation as to why the sediment performance goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(3) At each site where land disturbing construction activity is to occur, the plan shall include BMPs that shall be used to prevent or reduce all of the following:

- A. The deposition of soil from being tracked onto streets by vehicles.
- B. The discharge of sediment from disturbed areas into storm water inlets.
- C. The discharge of sediment from disturbed areas into adjacent waters of the state.
- D. The discharge of sediment from drainage ways that flow off the site.
- E. The discharge of sediment by dewatering activities.
- F. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
- G. The discharge of onsite chemicals, cement and other building compounds and materials into waters of the state or offsite separate storm sewers during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this ordinance.

Note to Users: Wastewaters, such as concrete truck washout, need to be properly managed to limit the discharge of pollutants to waters of the state. A separate permit may be needed from the Wisconsin Department of Natural Resources where a wastewater discharge has the potential to adversely impact waters of the state. The appropriate Wisconsin Department of Natural Resources wastewater specialist should be contacted to determine if wastewater permit coverage is needed where wastewater will be discharged to waters of the state.

(d) Location. The BMPs used to comply with this section shall be located prior to runoff entering waters of the State.

(e) Alternate Requirements. The Land & Water Conservation Department may establish requirements more stringent than those set forth in this section if the Land & Water Conservation Department determines that an added level of protection is needed.

(f) The BMPs used to comply with this ordinance shall be implemented as follows:

- A. The erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
- B. Erosion and sediment control practices shall be maintained until final stabilization.
- C. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- D. Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- E. BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(g) Targeted performance standards. The Calumet County Land and Water Conservation Department may establish numeric water quality requirements that are more stringent than those set forth in section 10-37 in order to meet targeted performance standards, total maximum daily loads, and/or water quality standards for a specific water body or area. The numeric water quality requirements may be applicable to any permitted site, regardless of the size of land disturbing construction activity.

Sec. 10-38. Permitting Requirements, Procedures and Fees.

(a) Permit Required. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an Erosion and Sediment Control Plan for the site and a permit from the Land & Water Conservation Department.

(1) Exemptions:

- a. Any roadway construction or other land disturbing activity by the State, unless part of a larger common plan of development, provided they comply with the Construction Site Erosion Control and Post-Construction Stormwater requirements of this chapter.
- b. The Land & Water Conservation Department may waive the requirement for a permit and fee if it is determined by the Land & Water Conservation Department that a given construction site will have no appreciable off-site impacts or is internally drained and will not discharge runoff from the site during construction or after development occurs. This only applies to sites that are not required to meet performance standards in Sec. 10-37.

(b) Permit Application and Fees. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an Erosion and Sediment Control Plan that meets the requirements of Sec. 10-37 and shall pay an application fee to the Land & Water Conservation Department. By submitting an application, the applicant is authorizing the Land & Water Conservation Department to enter the site to obtain information required for the review of the Erosion and Sediment Control Plan.

(c) Review and Approval of Permit Application. The Land & Water Conservation Department shall review any complete permit application that is submitted with an Erosion and Sediment Control Plan, and the correct required fee. The following approval procedure shall be used:

(1) Within 20 business days of the receipt of a complete permit application, Erosion and Sediment Control Plan and correct fee as required by sub. (b), the Land & Water Conservation Department shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

(2) If the permit application and plan are approved, the Land & Water Conservation Department shall issue the permit.

(3) If the permit application or plan is disapproved, the Land & Water Conservation Department shall state in writing the reasons for disapproval.

(4) The Land & Water Conservation Department may request additional information from the applicant. If additional information is submitted, the Land & Water Conservation Department shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(5) Failure by the Land & Water Conservation Department to inform the permit applicant of a decision within 20 business days of receiving all required submittals shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) Surety Bond. As a condition of approval and issuance of the permit, the Land & Water Conservation Department may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved Erosion Control Plan and any permit conditions.

(e) Permit Requirements. All permits shall require the responsible party to:

- (1) Notify the Land & Water Conservation Department within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the Land & Water Conservation Department of completion of any BMPs within 10 business days after their installation.
- (3) Obtain permission in writing from the Land & Water Conservation Department prior to any modification pursuant to Sec. 10- 42(c) of the Erosion and Sediment Control Plan.
- (4) Install all BMPs as identified in the approved erosion and sediment control plan.
- (5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the Erosion and Sediment Control Plan.
- (6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
- (7) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.
- (8) Allow the Land & Water Conservation Department to enter the site for the purpose of inspecting compliance with the Erosion and Sediment Control Plan and for performing any work necessary to bring the site into compliance with the Control Plan.
- (9) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (10) Keep a copy of the Erosion and Sediment Control Plan, stormwater management plan, amendments, weekly inspection reports, and permit at the construction site until final stabilization of the site.

(f) Permit Conditions. Permits issued under this section may include conditions established by the Land & Water Conservation Department in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in Sec. 10-42.

(g) Permit Duration. Permits issued under this section shall be valid for a period of 1 year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Land & Water Conservation Department may extend the period one or more times for up to an additional 1 year. The Land & Water Conservation Department may

require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(h) Maintenance. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

(i) Alternate Requirements. The Land & Water Conservation Department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

(j) General permits. the Calumet County Land & Water Conservation Department may issue a General Erosion Control Permit to a municipality or other county department for road ditch maintenance along public roads and to private utilities for utility maintenance and siting. The following conditions apply to the issuing of general permits for these purposes:

(1) General permits may only be issued for a one-year period. Road ditch maintenance and utility work shall only take place during the period between April 1 and September 1. After September 1, work must be approved on a case by case basis by the administering authority. Permit fees for utility work may differ from those charged per S.10-38 of this ordinance as determined by the administering authority. No permit fees shall be charged for road ditch maintenance.

(2) A list of planned road ditch maintenance and utility work must be provided to the administering authority no less than 10 business days prior to work.

(3) Listed sites must be accompanied with an erosion control plan. The erosion control plan may include generic erosion control practices that are applicable to the proposal.

(4) The erosion control plan must incorporate erosion control measures for road ditch maintenance and utility work, and be designed using criteria defined in the current edition of Wisconsin Department of Transportation Facilities Development Manual.

Secs. 10-39. -- 10-41. Reserved.

Sec. 10-42. Erosion and Sediment Control Plan, Statement, and Amendments.

(a) Plan Requirements. The Erosion and Sediment Control Plan required under Sec. 10-42 (b) shall comply with the Calumet County Construction Site Erosion Control and Post-Construction Stormwater Reference Guides and contain at a minimum the following information:

(1) Name, address, and telephone number of the landowner and responsible parties.

(2) A legal description of the property proposed to be developed.

(3) A site map with property lines, disturbed limits, and drainage patterns.

(4) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.

(5) Performance standards applicable to site.

(6) Proposed best management practices and practice locations shown on the site map.

(b) Erosion and Sediment Control Plan Statement. For each construction site identified under Sec. 10-31 (a)(3), an Erosion and Sediment Control Plan Statement shall be prepared. This Statement shall be submitted to the Land & Water Conservation Department. The Statement shall briefly describe the site, including a site map. Further, it shall also include the Best Management Practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(c) Amendments. The applicant shall amend the plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the State and which has not otherwise been addressed in the Plan.

(2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The Land & Water Conservation Department notifies the applicant of changes needed in the Plan.

(d) Alternate Requirements. The Land & Water Conservation Department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

Sec. 10-43. Fee Schedule.

The fees referred to in this ordinance shall be established by the Land and Water Conservation Committee. A schedule of the fees established shall be available for review in the Land & Water Conservation Department.

Permit fees may be waived for projects that are not required to submit a fee for a permit granted under Chapter 18, Article IV, Sec. 18-108(b).

Sec. 10-44. Inspection.

If land disturbing construction activities are being carried out without a permit required by this ordinance, the Land & Water Conservation Department may enter the land pursuant to the provisions of §66.0119, Wis. Stats.

Sec. 10-45. Enforcement.

(a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(b) The Calumet County Land & Water Conservation Department shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-

construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

(c) Upon receipt of written notification from the Calumet County Land & Water Conservation Department under sub. (2), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Calumet County Land & Water Conservation Department in the notice.

(d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Calumet County Land & Water Conservation Department may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Calumet County Land & Water Conservation Department plus interest and legal costs shall be billed to the responsible party.

(e) The Calumet County Land & Water Conservation Department is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the corporation counsel to obtain a cease and desist order in any court with jurisdiction.

(f) The Calumet County Land & Water Conservation Department may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Calumet County Land & Water Conservation Department or by a court with jurisdiction.

(h) The Calumet County Land & Water Conservation Department is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the corporation counsel for the commencement of further legal proceedings in any court with jurisdiction.

(i) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 50 dollars and no more than 500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(j) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

(k) When the Calumet County Land & Water Conservation Department determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the Calumet County Land & Water Conservation Department or a party designated by the Calumet County Land & Water Conservation Department may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Calumet County Land & Water Conservation Department shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be entered on the tax roll as a tax against the property and collected with any other taxes levied thereon.

Sec. 10-46. Appeals.

(a) The Calumet County Land Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Calumet County Land & Water Conservation Department in administering this ordinance. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(b) Who may appeal. Appeals to the Land Conservation Committee may be taken by any aggrieved person or by an officer, department, board, or bureau of Calumet County affected by any decision of the Calumet County Land & Water Conservation Department.

Secs. 10-47. -- 10-49. Reserved.

ARTICLE III.

POST-CONSTRUCTION STORMWATER MANAGEMENT

Sec. 10-50. Foreword.

The intent of this ordinance is to reduce the amount of post-construction stormwater and associated pollutants reaching waters of the state. Use of this ordinance by municipalities will foster the consistent statewide application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

Sec. 10-51. Authority.

This ordinance is adopted by Calumet County under the authority granted by s. 59.693, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 59.69, Wis. Stats., that relate to stormwater management regulations. Except as otherwise specified in s. 59.693, Wis. Stats., s. 59.69, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

Calumet County hereby designates the Calumet County Land & Water Conservation Department to administer and enforce the provisions of this ordinance.

The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:

- (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
- (b) Targeted performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

Sec. 10-52. Findings of Fact.

Calumet County finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (d) Reduce the quality of groundwater by increasing pollutant loading.
- (e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (f) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

Sec. 10-53. Purpose and Intent.

(a) PURPOSE. The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

- (1) Further the maintenance of safe and healthful conditions.
- (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(b) INTENT. It is the intent of Calumet County that this ordinance regulates post-construction stormwater discharges to waters of the state. This ordinance may be applied on a site-by-site basis. Calumet County recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional stormwater management measures and have been approved by the Calumet County Land & Water Conservation Department, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 10-54. Applicability and Jurisdiction.

(a) APPLICABILITY.

(1) Where not otherwise limited by law, this ordinance applies to all post-construction sites, unless the site is otherwise exempt under 10-54(a)(2).

(2) A post-construction site that meets any of the following criteria is exempt from the requirements of this ordinance.

- a. 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance.
- b. Non-point discharges from agricultural activity areas.
- c. Non-point discharges from silviculture activities.
- d. Mill and crush operations.

(3) Notwithstanding the applicability requirements in 10-54(a)(1), this ordinance applies to post-construction sites of any size that, in the opinion of the Calumet County Land & Water Conservation Department, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(b) JURISDICTION.

This ordinance applies to post-construction sites within the unincorporated areas of Calumet County.

(c) EXCLUSIONS

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

Note to users: The Wisconsin Department of Transportation (WisDOT) has entered into a memorandum of understanding with the Wisconsin Department of Natural Resources that satisfies s. 281.33 (2), Wis. Stats., such that activities directed and supervised by WisDOT are exempt from this ordinance.

Sec. 10-55. Definitions.

Adequate sod, or self-sustaining vegetative cover means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

Administering authority means a governmental employee, or a regional planning commission empowered under s. 59.693; Wis. Stats., that is designated by Calumet County to administer this ordinance.

Agricultural activity area means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage

structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

Best management practice or BMP means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the Calumet County Land & Water Conservation Department is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Combined sewer system means a system for conveying both sanitary sewage and stormwater runoff.

Common plan of development or sale means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Connected imperviousness means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The Atlas 14 MSE4 24-hour design storms for Calumet County are: 1-year, 2.14 inches; 2-year, 2.47 inches; 5-year, 3.06 inches; 10-year, 3.6 inches; 25-year, 4.45 inches; and 100-year, 5.96 inches.

Development means residential, commercial, industrial, institutional, or other land uses and associated roads.

Direct conduits to groundwater means wells, sinkholes, swallets, fractured bedrock at the surface, sand or gravel surficial deposits, mine shafts, nonmetallic mines, tile inlets discharging to groundwater, quarries or depressional groundwater recharge areas over shallow fractured bedrock.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5-year period.

Effective infiltration area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Exceptional resource waters means waters listed in s. NR 102.11, Wis. Adm. Code.

Existing development means development in existence on October 1, 2004 or development for which a stormwater permit in accordance with subch. III of Ch. NR 216, Wis. Adm. Code, was received on or before October 1, 2004.

Extraterritorial means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Filtering layer means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the Calumet County Land & Water Conservation Department for the site.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Calumet County Land & Water Conservation Department by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Groundwater means any of the waters of the state, as defined in s.281.01 (18), Wis. Stats. occurring in a saturated subsurface geological formation of rock or soil.

High Groundwater Level or Subsurface Saturation means the higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil color patterns throughout the soil profile.

Highway has the meaning given in s. 340.01 (22), Wis. Stats.

Highway reconditioning has the meaning given in s. 84.013 (1)(b), Wis. Stats.

Highway reconstruction has the meaning given in s. 84.013(1)(c), Wis. Stats.

Highway resurfacing has the meaning given in s. 84.013(1)(d), Wis. Stats.

Impervious surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of surfaces that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.

Impervious surface disturbance means any land disturbing construction activity in which any new impervious surfaces are created or existing impervious surfaces are redeveloped.

In-fill means an undeveloped area of land or new development area located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur. "In-fill" does not include any undeveloped area that was part of a larger new development for which a stormwater permit in accordance with subch. III of ch. NR 216, Wis. Adm. Code, was required to be submitted after October 1, 2004 to the Wisconsin Department of Natural Resources or Wisconsin Department of Safety and Professional Services (formerly Department of Commerce).

Infiltration means the entry and movement of precipitation or runoff into or through soil.

Infiltration system means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Land disturbing construction activity or disturbance means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of pollutants into the municipal separate storm sewer or waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

Maintenance agreement means a legal document that provides for long-term maintenance of stormwater management and best management practices.

MEP or maximum extent practicable means the highest level of performance that is achievable but is not equivalent to a performance standard identified within this ordinance. Maximum extent practicable applies when the permit applicant demonstrates to the Calumet County Land & Water Conservation Department's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the permit applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

Minor reconstruction of a highway means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening, and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway.

MSE4 means a rainfall distribution as established by the Natural Resources Conservation Service using Atlas 14 rainfall data provided by the National Oceanic & Atmospheric Administration which is incorporated by reference for this ordinance. The distribution is applicable for Calumet County.

Navigable waters and navigable waterway has the meaning given in s. 30.01(4m), Wis. Stats.

New development means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Off-site means located outside the property boundary described in the permit application.

On-site means located within the property boundary described in the permit application.

Ordinary high-water mark has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

Outstanding resource waters means waters listed in s. NR 102.10, Wis. Adm. Code.

Percent fines means the percentage of a given sample of soil, which passes through a # 200 sieve.

- *Note to users: Percent fines can be determined using the “American Society for Testing and Materials”, volume 04.02, “Test Method C117-95 Standard Test Method for Materials Finer than 75-µm (No. 200) Sieve in Material Aggregates by Washing”. Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or online at: “http://www.astm.org/”.*

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the Calumet County Land & Water Conservation Department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Permit administration fee means a sum of money paid to the Calumet County Land & Water Conservation Department by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant has the meaning given in s. 283.01(13), Wis. Stats.

Pollution has the meaning given in s. 281.01(10), Wis. Stats.

Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.

Post-development means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.

Pre-development means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

Redevelopment means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Responsible party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

Routine maintenance means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface’s granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- Is designed or used for collecting water or conveying runoff.
- Is not part of a combined sewer system.
- Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- Discharges directly or indirectly to waters of the state.

Silviculture activities means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop work order means an order issued by the Calumet County Land & Water Conservation Department which requires that all construction activity on the site be stopped.

Stormwater management plan means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.

Stormwater management system plan is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Targeted performance standard means a performance standard that will apply in a specific area, where additional practices beyond those contained in this ordinance, are necessary to meet water quality standards. A total maximum daily load is an example of a targeted performance standard.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Top of the channel means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

Total maximum daily load or TMDL means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this ordinance.

Transportation facility means a public street, a public road, a public highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Wisconsin Department of Natural Resources pursuant to s. 281.33, Wis. Stats.

Type II distribution means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973", which is incorporated by reference for this ordinance. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the state has the meaning given in s. 283.01 (20), Wis. Stats.

Sec. 10-56. Technical Standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, fueling / vehicle maintenance, and swale treatment components of stormwater practices needed to meet the water quality standards of this ordinance:

- (a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (b) Technical standards and guidance identified within the Calumet County Stormwater Reference Guide.
- (c) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Calumet County Land & Water Conservation Department.
- (d) In this ordinance, the following year and location has been selected as average annual rainfall(s): Green Bay, 1969 (Mar. 29-Nov. 25).

Sec. 10-57. Performance Standards.

- (a) RESPONSIBLE PARTY. The responsible party shall develop and implement a post-construction stormwater management plan that incorporates the requirements of this section.
- (b) PLAN. A written stormwater management plan shall be developed and implemented by the responsible party in accordance with 10-59. The stormwater management plan shall meet all of the applicable requirements contained in this ordinance.
- (c) REQUIREMENTS. The stormwater management plan shall meet the following minimum requirements to the maximum extent practicable:
 - (1) WATER QUALITY. BMPs shall be designed, installed and maintained to control pollutants carried in runoff from the post-construction site. The design shall be based on the average annual rainfall, as compared to no runoff management controls.

a. For post-construction sites with 1 acre or more of land disturbance, the following is required:

1. Except as provided in 10-57(c)(1)a2, a pollutant reduction is required as follows:

Watershed	Total Suspended Solids (TSS) & Total Phosphorus (TP) Reduction					
	New Development		Redevelopment		Routine Maintenance	
	TSS	TP	TSS	TP	TSS	TP
All non TMDL watersheds	80%	N/A	40%	N/A	40%	N/A
Garners Creek TMDL	80%	69%	40%	69%	40%	69%
Kankapot Creek TMDL	80%	41%	40%	41%	40%	41%
Plum Creek TMDL	80%	41%	40%	41%	40%	41%
East River TMDL	80%	41%	40%	41%	40%	41%

2. A pollutant reduction is not required for routine maintenance areas that are part of a post-construction site with less than 5 acres of disturbance.

- b. For post-construction sites with less than 1 acre of disturbance, not in a TMDL watershed, reduce the pollutant load using BMPs from the Calumet County Stormwater Reference Guide or other practices approved by the Calumet County Land & Water Conservation Department.
- c. Sites, including common plan of development sites, with accumulative addition of 20,000 square feet or greater of impervious surfaces after October 1, 2008 are required to satisfy the performance standards within 10-57(c)(1)a1. and 2.
- d. The amount of pollutant control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

e. When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the treatment efficiency of the practice. Any impact on the BMP efficiency shall be compensated for by increasing the size of the BMP accordingly. The pollutant load reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite pollutant load reduction, unless otherwise approved by the Calumet County Land & Water Conservation Department in accordance with 10-57(e).

f. If the design cannot meet the water quality performance standards of 10-57(c)(1)a. through e., the stormwater management plan shall include a written, site specific explanation of why the water quality performance standard cannot be met and why the pollutant load will be reduced only to the maximum extent practicable. Except as provided in 10-57(f), the Calumet County Land & Water Conservation Department may not require any person to exceed the applicable water quality performance standard to meet the requirements of maximum extent practicable.

g. *Exemptions.* The water quality performance standards do not apply to the following:

1. For municipalities that are regulated under subch. I of NR 216, Wis. Adm. Code, the water quality performance standard for a highway reconstruction project first applies January 1, 2017.
2. Agricultural production areas.

Note to users: Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing pollutant loads.

(2) PEAK DISCHARGE. BMPs shall be designed, installed and maintained to control peak discharges from post-construction sites and agricultural production areas.

a. For post-construction sites and agricultural production areas with one or more of the following:

- 20,000 square feet or more of impervious surface disturbance and/or creation.
- post construction sites with 1 acre or more of land disturbance
the following is required:

1. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 1-year, 2-year, 10-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
2. TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. Unless the site is currently woodland, peak pre-development discharge rates shall be determined using the following runoff curve numbers for a “meadow” vegetative cover:

Maximum Pre-Development Runoff Curve Numbers				
Vegetative Cover	Hydrologic Soil Group			
	A	B	C	D
Meadow	30	58	71	78
Woodland	30	55	70	77

b. For post-construction sites and agricultural production areas with less than 20,000 square feet of impervious surface disturbance, prepare a plan that shows how the peak post-development discharge rates are reduced using BMPs from the Calumet County Stormwater Reference Guide. If 90% of the proposed impervious discharges to BMPs; these sites are not required to satisfy a numeric performance standard.

- c. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after October 1st, 2008 are required to satisfy the performance standards within 10-57(c)(2)a1. and 2.
- d. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- e. When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The peak discharge reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite peak discharge reduction, unless otherwise approved by the Calumet County Land & Water Conservation Department in accordance with 10-57(e).
- f. An adequate outfall shall be provided for each point of concentrated discharge and shall:
 - 1. Consist of non-erosive discharge velocities and reasonable downstream conveyance.
 - 2. Discharge to the municipal separate storm sewer system, waters of the state, or appropriate drainage easement. Sites not able to meet this requirement shall diffuse the concentrated discharge within the site boundary using BMPs from the Calumet County Reference Guide or other practices approved by the Calumet County Land and Water Conservation Department.
- g. All new development sites shall have a minimum 1 foot of vertical separation between the lowest floor surface and the high ground water level and/or bedrock as defined in 10-55 and described in the Stormwater Reference Guide.

Sites not able to meet this separation shall quantify the anticipated amount of groundwater that will be discharged to the surface. System-wide management of the proposed groundwater discharge shall be required. All BMPs shall be approved by the Calumet County Land & Water Conservation Department and indicated on the drainage plan.

A post-construction site that is near an area indicated in the Calumet County Stormwater Reference Guide as having a depth to carbonate bedrock of 50 feet or less is required to perform field verification as outlined in Wisconsin Department of Natural Resources (WDNR) Technical Standard 1002. The stormwater plan shall assess the risk to BMP failure caused by high groundwater levels or bedrock. Remediation or mitigation strategies shall be presented as part of the stormwater plan.

h. Direct conduits to groundwater shall be identified. Direct conduits to groundwater requires a unique approach to stormwater design. If the proposed site is located within the watershed of a direct conduit to groundwater, an analysis of practical measures to avoid direct discharge shall be provided. Additional guidance may be found within the Calumet County Stormwater Reference Guide.

i. Agricultural production areas shall meet the peak discharge performance standards by following the requirements and using the BMPs in the Calumet County Stormwater Reference Guide for agricultural production areas.

j. *Exemptions.* The peak discharge performance standards do not apply to the following:

- 1. A transportation facility where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
- 2. Except as provided under 10-57(c)(2)d. to f., a highway reconstruction site.
- 3. Except as provided under 10-57(c)(2)d. to f., a transportation facility that is part of a redevelopment project

(3) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff from the post-construction site, except as provided in 10-57(c)(3)i. through l.

a. For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, the following is required:

- 1. *Low Imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.

2. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

3. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

b. Pre-development condition shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. The actual pre-development vegetative cover and the following pre-development runoff curve numbers shall be used:

Maximum Pre-Development Runoff Curve Numbers				
Vegetative Cover	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

Note to users: A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

c. For post-construction sites with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using BMPs from the Calumet County Stormwater Reference Guide. These sites are not required to satisfy a numeric performance standard.

d. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after October 1st, 2008 are required to satisfy the performance standards within 10-57(c)(3)a. and b.

e. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.

f. Agricultural production areas are encouraged to infiltrate runoff volume using BMPs from the Calumet County Stormwater Reference guide.

g. When designing BMPs, runoff draining to the BMP from offsite areas shall be taken into account in determining the performance of the practice. Any impact on the BMP performance shall be compensated for by increasing the size of the BMP accordingly. The runoff volume reduction provided by the BMP for an offsite area shall not be used to satisfy the required onsite runoff volume reduction, unless otherwise approved by the Calumet County Land & Water Conservation Department in accordance with 10-57(e).

h. *Pretreatment.* Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with 10-57(c)(3)n. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

i. *Source area prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of 10-57(c)(3) unless demonstrated to meet the conditions of 10-57(c)(3)n.

1. Areas associated with a tier 1 industrial facility identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, and parking. Rooftops may be infiltrated with the concurrence of the Calumet County Land & Water Conservation Department.
2. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21(2)(b), Wis. Adm. Code.

Note to users: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

3. Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the Calumet County Land & Water Conservation Department.
4. Untreated runoff from agricultural production areas that contain livestock, animal waste, or feed storage.

j. *Source area exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these sources is optional:

1. Parking areas and access roads less than 5,000 square feet for commercial development.
2. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under 10-57(c)(3)i.
3. Except as provided under 10-57(c)(3)e., redevelopment and routine maintenance areas.
4. In-fill development areas less than 5 acres.
5. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
6. Except as provided under 10-57(c)(3)e., transportation facility highway reconstruction and new highways.

k. *Prohibitions.* Infiltration practices may not be located in the following areas:

1. Areas within 1,000 feet up gradient or within 100 feet downgradient of direct conduits to groundwater.
2. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within the separation distances listed in s. NR 812.08, Wis. Adm. Code, for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial, and institutional land uses or regional devices for one- and two-family residential development.
3. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code, are present in the soil through which infiltration will occur.

l. *Separation distances.* Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with the following:

Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	

All Other Impervious Source Areas	3 feet or more	Filtering Layer
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Notwithstanding 10-57(c)(3)l., applicable requirements for injection wells classified under ch. NR 815, Wis. Adm. Code, shall be followed.

m. *Alternate uses.* Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by 10-57(c)(3).

n. *Groundwater standards.*

1. Infiltration systems designed in accordance with this 10-57(c)(3) shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding 10-57(c)(3)n1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

o. Where the conditions of 10-57(c)(3)i. through l. limit or restrict the use of infiltration practices, the performance standard of 10-57(c)(3) shall be met to the maximum extent practicable.

p. *Exemptions*

1. Agricultural production areas. Agricultural production areas may choose to use infiltration practices that meet the requirements of 10-57(c)(3), but are not required to.

(4) PROTECTIVE AREAS.

a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in 10-57(c)(4), "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, 75 feet.

2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

3. For lakes, 50 feet.

4. For wetlands not subject to 10-57(c)(4)a5. or 6., 50 feet.

5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

6. For moderately susceptible wetlands, 50 feet. Moderately susceptible wetlands include, but are not limited to: shrub wetlands, floodplain forests, fresh wet meadows, deep/shallow marshes, and forested wetlands. perennial and intermittent streams also fit in this protective area designation.

7. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

8. In 10-57(c)(4)a4. to 6., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03, Wis. Adm. Code.

9. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m), Wis. Adm. Code. 10-57(c)(4) does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

10. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

11. Notwithstanding 10-57(c)(4)a1. to 9., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

Note to users: A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

b. 10-57(c)(4) applies to all post-construction sites located within a protective area, except those areas exempted pursuant to 10-57(c)(4)e.

c. The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the stormwater management plan shall contain a written, site-specific explanation.

2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

3. Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

d. A protective area established or created after October 1st, 2008 shall not be eliminated or reduced, except as allowed in 10-57(c)(4)e2., 3., or 4.

e. *Exemptions.* The following areas are not required to meet the protective area requirements of 10-57(c)(4):

1. Redevelopment and routine maintenance areas provided the minimum requirements within 10-57(c)(4)d. are satisfied.

2. Structures that cross or access surface waters such as boat landings, bridges and culverts.

3. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.

4. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of 10-57(c)(1) and (2), except to the extent that vegetative ground cover is necessary to maintain bank stability.

(5) **FUELING AND VEHICLE MAINTENANCE AREAS.** Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

Note to users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(6) SWALE TREATMENT FOR TRANSPORTATION FACILITIES. This 10-57(c)(6) is not applicable to transportation facilities that are part of a larger common plan of development or sale.

a. *Requirement.* Except as provided in 10-57(c)(6)b., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of 10-57(c)(1), (2), and (3), if the swales are designed to do all of the following or to the maximum extent practicable:

1. Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

2. Swales shall comply with the Wisconsin Department of Natural Resources Technical Standard 1005, "Vegetated Infiltration Swale", except as otherwise authorized in writing by the Wisconsin Department of Natural Resources.

b. *Other Requirements.* Notwithstanding 10-57(c)(6)a., the Calumet County Land & Water Conservation Department may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

1. An outstanding resource water.

2. An exceptional resource water.

3. Waters listed in section 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.

4. Waters where targeted performance standards are developed pursuant to s. NR 151.004, Wis. Adm. Code.

(7) EXEMPTIONS. The following areas are not required to meet the performance standards within 10-57(c):

a. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

b. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.

1. A transportation facility post-construction site with less than 10 percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. Notwithstanding this exemption, the protective area requirements of 10-57(c)(4) still apply.

2. Reconditioning or resurfacing of a highway.

3. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements of 10-57(c)(4) apply to minor reconstruction of a highway.

4. Routine maintenance for transportation facilities that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

5. Routine maintenance if performed for stormwater conveyance system cleaning.

(d) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORMWATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) While not required, measures such as widening the safety shelf or fencing to enhance safety may be considered for practices with a permanent pool.

(e) BMP LOCATION AND CREDIT.

(1) GENERAL. To comply with 10-57(c) performance standards, the BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system.

(2) OFFSITE OR REGIONAL BMP.

a. The amount of credit that the Calumet County Land & Water Conservation Department may give an offsite or regional BMP for purposes of determining compliance with the performance standards of 10-57(c) is limited to the treatment capability or performance of the BMP.

b. The Calumet County Land & Water Conservation Department may authorize credit for an off-site or regional BMP provided all of the following conditions are satisfied:

1. The BMP received all applicable permits.

2. The BMP shall be installed and operational before the construction site has undergone final stabilization.

3. The BMP shall be designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site BMPs meeting the 10-57(c) performance standards.

4. The owner of the BMP has entered into a 10-60 maintenance agreement with Calumet County, or another municipal entity, such that the BMP has a legally obligated entity responsible for its long-term operation and maintenance. Legal authority exists if a municipality owns, operates and maintains the BMP.

5. The owner of the BMP has provided written authorization which indicates the permit applicant may use the BMP for 10-57(c) performance standard compliance.

6. Where an off-site or regional BMP option exists such that the Calumet County Land & Water Conservation Department exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Calumet County Land & Water Conservation Department. In determining the fee for post-construction runoff, the Calumet County Land & Water Conservation Department shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the off-site or regional BMP.

(3) BMP IN NON-NAVIGABLE WATERS. For purposes of determining compliance with the performance standards of 10-57(c), the Calumet County Land & Water Conservation Department may give credit for BMPs that function to provide treatment for runoff from existing development and post-construction runoff from new development, redevelopment, and routine maintenance areas and that are located within non-navigable waters.

(4) BMP IN NAVIGABLE WATERS.

a. *New Development Runoff.* Except as allowed under 10-57(e)(4)b., BMPs designed to treat post-construction runoff from new development areas may not be located in navigable waters and, for purposes of determining compliance with the performance standards of 10-57(c), the Calumet County Land & Water Conservation Department may not give credit for such BMPs.

b. *New Development Runoff Exemption.* BMPs to treat post-construction runoff from new development areas may be located within navigable waters and may be creditable by the Calumet County Land & Water Conservation Department under 10-57(c), if all the following are met:

1. The BMP was constructed prior to October 1, 2002 and received all applicable permits.

2. The BMP functions or will function to provide runoff treatment for the new development area.

c. *Existing Development & Post-Construction Runoff from Redevelopment, Routine Maintenance, & Infill Development Areas.* Except as provided in 10-57(e)(4)d., BMPs designed to treat post-construction runoff for existing development and post-construction runoff from redevelopment, routine maintenance and infill development areas may not be located in navigable waters and, for purposes of determining compliance with the performance standards of 10-57(c), the Calumet County Land & Water Conservation Department may not give credit for such BMPs.

d. *Existing Development & Post-Construction Runoff from Redevelopment, Routine Maintenance, & Infill Development Areas Exemption.* BMPs that function to provide treatment of runoff from existing development and post-construction runoff from redevelopment, routine maintenance and infill development areas may be located within navigable waters and, for purposes of determining compliance with the performance standards of 10-57(c), the Calumet County Land & Water Conservation Department may give credit for such BMPs, if any of the following are met:

1. The BMP was constructed, contracts were signed or bids advertised and all applicable permits were received prior to January 1, 2011.
2. The BMP is on an intermittent waterway and all applicable permits are received.

(5) WATER QUALITY TRADING. To comply with 10-57(c)(1) performance standards, the Calumet County Land & Water Conservation Department may authorize credit for water quality trading provided all of the following conditions are satisfied:

- a. The treatment practices associated with a water quality trade shall be in place, effective and operational before credit can be authorized.
- b. The water quality trade shall comply with applicable trading ratios established by the Wisconsin Department of Natural Resources or Calumet County.
- c. The water quality trade shall comply with applicable regulations, standards, and guidance developed by the Wisconsin Department of Natural Resources or Calumet County.
- d. The responsible party shall furnish a copy of executed water quality trading agreements or other related information deemed necessary by the Calumet County Land & Water Conservation Department in order to authorize credit.

(f) TARGETED PERFORMANCE STANDARDS. The Calumet County Land & Water Conservation Department may establish numeric water quality requirements that are more stringent than those set forth in 10-57(c) in order to meet targeted performance standards, total maximum daily loads, and/or water quality standards for a specific water body or area. The numeric water quality requirements may be applicable to any permitted site, regardless of the size of land disturbing construction activity.

(g) ALTERNATE REQUIREMENTS. The Calumet County Land & Water Conservation Department may establish stormwater management requirements more stringent than those set forth in this section if the Calumet County Land & Water Conservation Department determines that an added level of protection is needed to protect sensitive resources. Also, the Calumet County Land & Water Conservation Department may establish stormwater management requirements less stringent than those set forth in this section if the Calumet County Land & Water Conservation Department determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

Sec. 10-58. Permitting Requirements, Procedures and Fees.

(a) PERMIT REQUIRED. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Calumet County Land & Water Conservation Department prior to commencing the proposed activity.

(b) PERMIT APPLICATION AND FEES. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Calumet County Land & Water Conservation Department a permit application made on a form provided by the Calumet County Land & Water Conservation Department for that purpose.

- (1) Unless otherwise accepted by this ordinance, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee.
- (2) The stormwater management plan shall be prepared to meet the requirements of 10-57 and 10-59, the maintenance agreement shall be prepared to meet the requirements of 10-60, the financial guarantee shall meet the requirements of 10-61, and fees shall be those established by Calumet County as set forth in 10-62.

(c) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Calumet County Land & Water Conservation Department shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(1) Within 20 business days of the receipt of a complete permit application, including all items as required by 10-58(b), the Calumet County Land & Water Conservation Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made pursuant to 10-57(e), the Calumet County Land & Water Conservation Department shall issue the permit.

(3) If the stormwater permit application, plan or maintenance agreement is disapproved, the Calumet County Land & Water Conservation Department shall detail in writing the reasons for disapproval.

(4) The Calumet County Land & Water Conservation Department may request additional information from the applicant. If additional information is submitted, the Calumet County Land & Water Conservation Department shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(5) Failure by the Calumet County Land & Water Conservation Department to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) PERMIT REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Calumet County Land & Water Conservation Department may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Calumet County Land & Water Conservation Department to suspend or revoke this permit may be appealed in accordance with 10-64.

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(2) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.

(3) The responsible party shall notify the Calumet County Land & Water Conservation Department at least 2 business days before commencing any work in conjunction with the stormwater management plan, and within 2 business days upon completion of the stormwater management practices. If required as a special condition under 10-58(e), the responsible party shall make additional notification according to a schedule set forth by the Calumet County Land & Water Conservation Department so that practice installations can be inspected during construction.

(4) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the Calumet County Land & Water Conservation Department or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The Calumet County Land & Water Conservation Department or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(5) The responsible party shall notify the Calumet County Land & Water Conservation Department of any significant modifications it intends to make to an approved stormwater management plan. The Calumet County Land & Water Conservation Department may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

(6) The responsible party shall inspect BMPs annually and after runoff events in accordance with stormwater management plan reference in section 10-59(a). The responsible party shall have a licensed professional submit a stamped written inspection report to Calumet County Land & Water Conservation Department for review and approval every five years. All reports shall accompany the stamped report.

(7) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of Calumet County, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(8) The responsible party authorizes the Calumet County Land & Water Conservation Department to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 10-61.

(9) If so directed by the Calumet County Land & Water Conservation Department, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(10) The responsible party shall permit property access to the Calumet County Land & Water Conservation Department or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(11) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Calumet County Land & Water Conservation Department may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(12) The responsible party is subject to the enforcement actions and penalties detailed in 10-63, if the responsible party fails to comply with the terms of this permit.

(13) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(e) PERMIT CONDITIONS. Permits issued under this subsection may include conditions established by Calumet County Land & Water Conservation Department in addition to the requirements needed to meet the performance standards in 10-57 or a financial guarantee as provided for in 10-61.

(f) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Calumet County Land & Water Conservation Department notifies the responsible party that all stormwater management practices have passed the final inspection required under 10-58(d)(4).

(g) ALTERNATE REQUIREMENTS. The Calumet County Land & Water Conservation Department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under 10-57(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 10-59. Stormwater Management Plan.

(a) PLAN REQUIREMENTS. The stormwater management plan required under 10-57(b) and 10-58(b) shall comply with the Calumet County Stormwater Reference Guide and contain at a minimum the following information:

- (1) Name, address, and telephone number of the landowner and responsible parties.
- (2) A legal description of the property proposed to be developed.
- (3) Pre-development site map with property lines, disturbed limits, and drainage patterns.
- (4) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - a. Total area of disturbed impervious surfaces within the site.
 - b. Total area of new impervious surfaces within the site.
 - c. Performance standards applicable to site.
 - d. Proposed best management practices.
 - e. Groundwater, bedrock, and soil limitations.
 - f. Separation distances. Stormwater management practices shall be adequately separated from wells to prevent contamination of drinking water.

(5) Inspection and maintenance schedules of stormwater BMPs.

(b) ALTERNATE REQUIREMENTS. The Calumet County Land & Water Conservation Department may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under 10-57(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 10-60. Maintenance Agreement.

(a) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required under 10-58(b) for stormwater management practices shall be an agreement between Calumet County and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance

agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

(b) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the plan required by 10-58(b):

- (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
- (2) A schedule for regular inspection and maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under 10-58(b).
- (3) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under 10-58(b).
- (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in 10-60(b)(2).
- (5) Authorization for the Calumet County Land & Water Conservation Department to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (6) A requirement on the Calumet County Land & Water Conservation Department to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
- (7) Agreement that the party designated under 10-60(b)(3), as responsible for long term maintenance of the stormwater management practices, shall be notified by the Calumet County Land & Water Conservation Department of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Calumet County Land & Water Conservation Department.
- (8) Authorization of the Calumet County Land & Water Conservation Department to perform the corrected actions identified in the inspection report if the responsible party designated under 10-60(b)(3) does not make the required corrections in the specified time period. The Calumet County Land & Water Conservation Department shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(c) ALTERNATE REQUIREMENTS. The Calumet County Land & Water Conservation Department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under 10-57(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 10-61. Financial Guarantee.

(a) ESTABLISHMENT OF THE GUARANTEE. The Calumet County Land & Water Conservation Department may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Calumet County Land & Water Conservation Department. The financial guarantee shall be in an amount determined by the Calumet County Land & Water Conservation Department to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Calumet County Land & Water Conservation Department the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the Calumet County Land & Water Conservation Department that the requirements of this ordinance have not been met.

(b) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

- (1) The Calumet County Land & Water Conservation Department shall release the portion of the financial guarantee established under this section, less any costs incurred by the Calumet County Land & Water Conservation Department to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Calumet County Land & Water Conservation Department may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

- (2) The Calumet County Land & Water Conservation Department shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the Calumet County Land & Water Conservation Department, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(c) ALTERNATE REQUIREMENTS. The Calumet County Land & Water Conservation Department may prescribe alternative requirements for applicants seeking an exemption to on-site stormwater management performance standards under 10-57(e) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

Sec. 10-62. Fee Schedule.

The fees referred to in other sections of this ordinance shall be established by the Calumet County Land & Water Conservation Department and may from time to time be modified by resolution. A schedule of the fees established by the Calumet County Land & Water Conservation Department shall be available for review in the Land & Water Conservation Department.

Sec. 10-63. Enforcement.

- (a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (b) The Calumet County Land & Water Conservation Department shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (c) Upon receipt of written notification from the Calumet County Land & Water Conservation Department under sub. (b), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Calumet County Land & Water Conservation Department in the notice.
- (d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Calumet County Land & Water Conservation Department may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Calumet County Land & Water Conservation Department plus interest and legal costs shall be billed to the responsible party.
- (e) The Calumet County Land & Water Conservation Department is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the corporation counsel to obtain a cease and desist order in any court with jurisdiction.
- (f) The Calumet County Land & Water Conservation Department may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Calumet County Land & Water Conservation Department or by a court with jurisdiction.
- (h) The Calumet County Land & Water Conservation Department is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the corporation counsel for the commencement of further legal proceedings in any court with jurisdiction.
- (i) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 50 dollars or more than 500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (j) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

(k) When the Calumet County Land & Water Conservation Department determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the Calumet County Land & Water Conservation Department or a party designated by the Calumet County Land & Water Conservation Department may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Calumet County Land & Water Conservation Department shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to 10-61 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

Sec. 10-64. Appeals.

(a) The Calumet County Land Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Calumet County Land & Water Conservation Department in administering this ordinance. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(b) WHO MAY APPEAL. Appeals to the Land Conservation Committee may be taken by any aggrieved person or by an officer, department, board, or bureau of Calumet County affected by any decision of the Calumet County Land & Water Conservation Department.

Sec. 10-65. Severability.

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

(Ord. No. 1997-19, §§ 1.1--1.4, 3-16-1998; Ord. No. 2007-32, Article III, 3-18-2008; Ord. No. 2007-31, Article II, 3-18-2008; Ord. No. 2007-30, §§1.1-1.4, 3-18-2008; Ord. No. 2010-20, Article II, 2-15-2011; Ord. No. 2010-21, Article III, 2-15-2011; Ord. No. 2016-05, Article III, May 17, 2016; Ord. No. 2016-04, Article II, May 17, 2016.)

Chapter 11

RESERVED

Chapters 12--13

RESERVED

Chapter 14

EMERGENCY SERVICES*

* **Cross References:** Law Enforcement, ch. 38.

Article I. In General

Sec. 14-1. Declaration of Emergencies.
Sec. 14-2. Emergency Rules.
Sec. 14-3. Local Emergency Planning Committee (LEPC).
Sec. 14-4. Emergency Management.
Sec. 14-5. National Incident Management Systems (NIMS)
Sec. 14-6. Public Safety Radio Systems.
Secs. 14-6--14-40. Reserved.

Article II. E 911 System

Sec. 14-41. Authority of Article Provisions.
Sec. 14-42. Purpose of Article.
Sec. 14-43. Administration.
Sec. 14-44. Operation; User Charges.
Sec. 14-45 Intentional Interference
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Article III. False Alarms

Sec. 14-81. Declaration of Intent.
Sec. 14-82. Definitions.
Sec. 14-83. General Requirements.
Sec. 14-84. Penalties for Violation of Article.
Sec. 14-85. Cooperation of Alarm User, Owner, or Lessee.

ARTICLE I.

IN GENERAL

Sec. 14-1. Declaration of Emergencies.

(a) A Declaration of a State of Emergency may be made by the Governor, the County Administrator, and the Emergency Management Coordinator in the absence of the County Administrator, or by majority of the County Board. The issuing authority shall issue all necessary proclamations as to the existence of a State of Emergency and shall issue such disaster warnings or alerts as shall be required in the County Emergency Operations Plan.

(b) After the Declaration of an Emergency and the issuance of official disaster warnings, the Emergency Management Coordinator shall take action in accordance with the County Emergency Operations Plan.

(c) Such State of Emergency shall continue until terminated by the issuing authority.
(Ord. No. 2002, § 1, 6-18-2002)

Sec. 14-2. Emergency Rules.

Upon the Declaration of Emergency, the County Board, the County Administrator, and, in his absence, the Emergency Management Coordinator may proclaim, promulgate and enforce orders and rules relating to the conduct of persons and the use of property which are necessary and expedient for the safety of the public, which preserve lives and property, and which ensure the cooperation in emergency management activities. Such proclamation shall be posted in three

public places and may be rescinded either by the issuing agency or by resolution of the County Board.

(Ord. No. 2002-2, § 2, 6-18-2002)

Sec. 14-3. Local Emergency Planning Committee (LEPC).

(a) The Board of Supervisors creates a Local Emergency Planning Committee, in accordance with Wis. Stats. §59.54(8).

(b) The Local Emergency Planning Committee shall consist of at least 13 regular members, but not more than 19 members.

(c) Members of the Local Emergency Planning Committee shall be appointed by the County Administrator and confirmed by the County Board for two-year terms. Upon such members being confirmed by the County Board, those names shall be forwarded to the Wisconsin Emergency Management Board for approval and recording, as required.

(Ord. No. 1997-12, §§ 1--3, 12-16-1997)

Cross References: Administration, ch. 2.

Sec. 14-4. Emergency Management.

(a) *Policy and purpose.* To ensure that the County will be prepared to cope with emergencies resulting from enemy action and with emergencies resulting from manmade and natural disasters, Emergency Management is created to carry out the purposes set out in Wis. Stats. §323

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Emergency management includes civil defense and means all measures undertaken by or on behalf of the state and its subdivisions:

- (1) To prepare for and minimize the effect of enemy action and natural or manmade disaster upon the civilian population.
- (2) To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

Enemy action means hostile action by a foreign power which threatens the security of this state or a portion thereof.

(c) *County Protection of Persons and Property Committee.*

(1) *How constituted.* The civil defense committee of the County Board as created under its rules is hereby designated as the County Protection of Persons and Property Committee. When acting as such, the committee shall follow County procedure when electing a committee Chair.

(2) *Duties.* The County Protection of Persons and Property Committee shall be an advisory and planning group and shall advise the County Emergency Management /Coordinator and the County Board of supervisors on all matters

pertaining to emergency management. It shall meet upon the call of the Chair.

(d) *County Emergency Management Coordinator.* There is hereby created the office of County-Municipal Emergency Management Coordinator. The County Emergency Management Coordinator shall also hold the office of Emergency Management Coordinator of such municipalities of the county as may hereafter enact an ordinance parallel to this section. In addition to his duties as County Emergency Management Coordinator, he shall have the additional duties and responsibilities of a Municipal Emergency Management Coordinator as provided for in Wis. Stats. §323.14.

(e) *Joint meetings.* Whenever it is deemed necessary by either the County Protection of Persons and Property Committee, or the Protection of Persons and Property Committee of a municipality participating in joint action, there shall be a joint meeting of the committees to decide such matters as may arise.

(f) *Duties of the County Emergency Management Coordinator.*

(1) *Countywide duties.* The Coordinator, in his capacity as county Coordinator, subject to the control and direction of the County Protection of Persons and Property Committee and under the general supervision of the County Board, shall:

- a. Develop and promulgate emergency management plans for the County including planning for joint action municipalities, consistent with the State Plan of Emergency Management;
- b. Coordinate and assist in the development of municipal emergency management plans within the County, and integrate such plans with the County Plan;
- c. Direct the County and joint action municipality emergency management programs;
- d. Direct Countywide emergency management training programs and exercises;
- e. Advise the State Administrator of Emergency Management of all emergency management planning for the County and render such reports as may be required by the Administrator;
- f. In case of a State of Emergency proclaimed by the Governor, direct the County and joint action municipalities in emergency management activities and coordinate the nonjoint action municipal emergency management activities within the County, subject to the coordinating authority of the State Administrator; and
- g. Perform such other duties relating to emergency management as may be required by the County Board.

(2) *Municipal duties.* The Coordinator in his capacity as Coordinator for a municipality in joint action shall:

- a. Direct the municipal emergency management organization;
- b. Develop, promulgate, and integrate into the County Plan, emergency management plans for the operating services of the municipalities;
- c. Direct participation of the municipality in such emergency management training programs and exercises as may be required on the County level or by the State Administrator;
- d. Direct the municipal emergency management training programs and exercises;
- e. Perform all administrative duties necessary for the rendering of reports and procurement of federal matching funds for each municipality requesting federal matching funds;
- f. In case of a State of Emergency proclaimed by the Governor, direct the activities of the municipal emergency management organization;
- g. Perform such other duties, relating to emergency management, as may be required by the municipal governing body.

(g) *Utilization of existing services and facilities.*

- (1) *Policy.* In preparing and executing the emergency management program, the services, equipment, supplies and facilities of the existing departments and agencies of the County shall be utilized to the maximum extent practicable; and the officer and personnel of all such departments and agencies are directed to cooperate with and extend such services and facilities as are required of them.
- (2) *Joint action.* Municipalities entering into joint action with the County will provide for utilization of existing services of municipal government by enactment of an ordinance parallel to this subsection of this section.

(h) *Other emergencies.*

- (1) *Joint action municipalities.* If the Governor determines that an emergency exists growing out of natural or manmade disasters, the County Emergency Management Coordinator will activate and direct the emergency management services at the appropriate level of government affected by the emergency.
- (2) *Nonjoint action municipalities.* In the event of a natural or manmade disaster, the County Coordinator will coordinate the municipalities affected and render such assistance as is required and available from county resources.
- (3) *Penalties.* It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any order, rule, regulation or plan issued pursuant to this section, or to do any act forbidden by any order, rule, regulation or plan issued pursuant to the authority contained in this section. For a violation of any of the provisions of this section, he shall forfeit not more than \$200.00.

Sec. 14-5. National Incident Management System (NIMS).

Calumet County will comply with the National Incident Management System (NIMS) requirement in all phases (i.e., mitigation, preparedness, response, recovery) of its emergency management program, as detailed by the federal and state government in order to facilitate an effective and coordinated emergency management system and in order to remain eligible for funding. A part of becoming compliant with NIMS, Calumet County hereby adopts the approved Incident Command System (ICS) for use in all emergency operations. The Calumet County Emergency Management Coordinator will provide County and municipal agencies with the information necessary to aid each entity comply with the NIMS requirement.

Secs. 14-6. Public Safety Radio Systems.

(a) Declaration of Intent. The primary purpose of this section is to eliminate any interference with radio or data communications for public safety within the County of Calumet. This section also intends to encourage companies and individuals to take all necessary planning measures to place a structure that provides adequate clearance of all current and future public safety radio systems.

(b) Definitions:

Fresnel zone: is a number of concentric ellipsoids of revolution which define volumes in the radiation pattern of a (usually) circular aperture. Fresnel zones result from diffraction by the circular aperture. The cross section of the first Fresnel zone is circular. Subsequent Fresnel zones are annular in cross section, and concentric with the first. A Fresnel zone is created in a microwave radio path.

Microwave radio: is a technology for transmitting digital and analog signals, such as long-distance telephone calls and the relay of control between a control console and a radio transmitter, between two locations on a line of sight radio path. In microwave radios, radio waves are transmitted between the two locations with directional antennas, forming a fixed radio connection between the two points.

Structure: is anything constructed, erected or otherwise placed, reconstructed or structurally altered, upon any premises requiring a more or less permanent location on or in the ground, including but not limited to for reasons of specific enumeration, all buildings, modular buildings, modular homes, trailers, towers, signs, satellite dishes and animal waste storage structures. Slabs and driveways shall not be interpreted as a structure.

(c) No structure, constructed, erected or otherwise placed, reconstructed or structurally altered, shall:

- (1) Interfere with any microwave radio system or voice radio system for public safety agencies within Calumet County.
- (2) Interfere with, damage or sever, any underground connections for voice or data public safety radio systems, such as fiber optic or telephone lines, within Calumet County.

(d) Prior to any construction activity, any individual or entity shall assure that no part of a

structure will block or redirect the signal of a public safety or microwave radio system. At least a 100 foot clearance of the Fresnel zone is required. Assurance may require that a path survey be conducted by a microwave radio engineer or engineering firm, at the expense of the individual or entity desiring to construct, erect, or otherwise place, reconstruct or structurally alter a structure. The location and coordinates of communication towers and appurtenances utilized for public safety may be obtained in the office of the Land & Water Conservation Department of Calumet County.

(e) Any person who creates an interference prohibited under this section shall eliminate the interference within twenty four (24) hours of said interference being discovered. In addition to any other relief available to the County for violating this section, the County may take appropriate legal action or proceedings including, recovery of damages and injunctive relief.

(f) Penalty. Any person who violates any of the provisions of this section shall be subject to section 1-7 and 1-8 of this Code. Each day of a violation constitutes a separate offense under this section.

Sec. 14-7--14-40. Reserved.

(Ord. No. 35, §§ 1--8, 9-26-1972; Ord. No. 2005-01,§5, 4-19-05; Ord. No. 2007-26, §14-6, 2-19-2008; Ord. No. 2018-1, 5-15-2018.)

ARTICLE II.

E 911 SYSTEMS

Sec. 14-41. Authority of Article Provisions.

This article is enacted under the authority of Wis. Stats. §146.70, and shall be constructed to be consistent with Wis. Stats. §146.70, and acts amendatory thereto.
(Ord. No. 1994-11, § 1, 8-16-1994)

Sec. 14-42. Purpose of Article.

This article is enacted for the purpose of creating an emergency telephone system which can be accessed from any telephone located in the County and elsewhere as provided in this article by dialing the numbers 911.
(Ord. No. 1994-11, § III, 8-16-1994)

Sec. 14-43. Administration.

This article shall be administered by the County Sheriff's Department under the direction of the sheriff, subject to the authority of the County Board, and its standing Protection of Persons and Property Committee.
(Ord. No. 1994-11, § IV, 8-16-1994)
Cross References: Administration, ch. 2.

Sec. 14-44. Operation; user charges.

(a) The County Sheriff's Department shall operate and maintain an emergency telephone system which can be accessed from any telephone located within the County by dialing 911, 24 hours per day, seven days per week.

(b) The Sheriff's Department shall create and maintain an E 911 operational manual which shall include a plan of organization, designation of exchange for all areas covered by E 911, and public safety answering points for all communities, the Coroner and Emergency Government.

(c) All customers within the county E 911 emergency telephone system area shall be billed in an amount sufficient to cover charges as provided for by Wis. Stats. §146.70(3).
(Ord. No. 1994-11, 8-16-1994)

Sec. 14-45 Intentional Interference.

No person shall intentionally interfere with the proper functioning of the E911 system. Interference shall include making false, abusive, obscene, repeated or hang-up telephone calls to the E911 system whether or not conversations occur.

Secs. 14-46--14-80. Reserved.

ARTICLE III.

FALSE ALARMS

Sec. 14-81. Declaration of Intent.

The primary purpose of this article is to reduce the incidents of false burglar, holdup and fire alarms, which are preventable or avoidable. This article is also intended to encourage the installation of reliable alarm systems and to ensure that they are well maintained and reliably used. The installation of properly functioning systems, used responsibly, should reduce the number of false alarms and reduce the danger to both officers and the public by minimizing the number of times the officers respond in an emergency manner to these false alarms.
(Ord. No. 1990-15, § 1, 3-18-1991)

Sec. 14-82. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system means an assembly of equipment and/or devices arranged and intended to signal the presence of a hazard or situation requiring urgent attention and to which the sheriff's department is expected to respond. The term "alarm system" shall include the terms, "holdup alarm," "burglar alarm system," "automatic holdup system," "manual holdup system," "direct line system," "proprietary system," "local alarm system," "central station system," "answering service" and "fire alarm."

Alarm user means any person on whose premises, commercial or residential, an alarm system is maintained within the County. Excluded are alarm systems on motor vehicles unless they are connected to an alarm system at a premises.

Annunciator means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, shows when an alarm device at a

particular location has been activated or which may indicate line trouble.

Answering service means a telephone answering service providing the service of receiving, on a continuous basis through employees, emergency signals from an alarm system and, thereafter, which is expected to immediately relay the message of the emergency signal (alarm) by live voice to the communication center of the Sheriff's Department.

Automatic dialing device means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation the alarm device is designed to detect.

Automatic holdup alarm system means an alarm system in which the signal transmission is initiated by the action of the robber.

Burglar alarm system means an alarm system signaling an entry or attempted entry into the area protected by the system.

Calendar year means 12:01 a.m. on January 1 to midnight on December 31.

Central station system means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained, and supervised from, a central station having trained operators in attendance at all times.

Direct line system means a telephone line leading directly from a central station to the communications center of the county sheriff's office used only to report emergency signal information on a person-to-person basis.

False alarm means any of the following:

- (1) The activation of an alarm system through negligence of the owner, alarm user, or lessee of an alarm system or of his employees or agents.
- (2) The activation of an alarm system through mechanical failure or malfunction because of improper maintenance by the alarm user, owner, lessee, or his employees or agents.
- (3) The activation of an alarm system because of improper installation by the alarm user, owner, lessee, or their employees or agents or the company which installed the system.
- (4) The negligence or improper use of the equipment by the alarm user, owner, lessee, or employee.

The term "false alarm" does not include those alarms caused by hurricanes, tornados, earthquakes, other violent conditions, or intentionally giving a false alarm as listed in Wis. Stats. §941.13.

Fire alarm means an alarm system signaling that a fire is occurring at an area protected by the system.

Holdup alarm means an alarm system signaling a robbery or attempted robbery.

Local alarm system means a signaling system which, when activated, causes an audible and/or visual signaling device to be activated in or on the premises the alarm was intended to protect. If the system was designed and intended to attract the attention of people outside of the building, it shall come under the definition of alarm system.

Manual holdup alarm means an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of an attack.

Proprietary system means an alarm system sounding or recording alarm and supervisory signals at a control within the protected premises, the control center being under the supervision of the proprietor, or an employee, of the protected premises. If a proprietary system includes a signal line connected directly, by means of an automatic dialing device, to the alarm panel at the Sheriff's Department, a central station, or answering service, it thereby becomes an alarm system. The system is also included if the control center receives the alarm signal and, by voice communication via telephone line or by activation of an alarm signal connected to the Sheriff's Department, indicates the existence of the alarm. (e.g., the control center receives an indication of a fire and they telephone the County Dispatcher that they have an indication of a fire or they trip an alarm that sends a signal to an annunciator in the alarm panel.)
(Ord. No. 1990-15, § 2, 3-18-1991)

Cross References: Definitions generally, § 1-2.

Sec. 14-83. General Requirements.

(a) Any person having an alarm installed on any business or residence and comes under the definition of the term "alarm user" shall, within 30 days of the alarm system becoming fully functional, notify the Sheriff's Department of the following:

- (1) The existence of the alarm and type (i.e burglary, fire, etc.).
- (2) The name of the alarm company installing and responsible for the maintenance of the alarm system and its phone number.
- (3) The name of the alarm user and the phone numbers of two people who can be contacted and will respond to the scene of the alarm to assist officers in checking property. The alarm owner, user, or lessee shall also notify the Sheriff's Department, within 30 days, of any change in the name or phone numbers for their contact people.
- (4) The person on whose premises the alarm system is installed shall contact the Sheriff's Department and advise them of who shall be considered the person primarily responsible for the system.

(b) No type of automatic dialing device or other alarm system shall be permitted to be directly connected by any means to the 911 emergency number system, except those lines which are directly connected to annunciators on the alarm panel.

(c) Alarms connected to the annunciators on the alarm panel at the Sheriff's Department shall be done via a dedicated telephone line, and all costs shall be borne by the alarm user, owner, or lessee.

(d) No alarm system designed to transmit emergency messages directly to the Sheriff's Department shall be tested or demonstrated without first notifying the Sheriff's Department communications center.
(Ord. No. 1990-15, § 3, 3-18-1991)

Sec. 14-84. Penalties for Violation of Article.

(a) The owner, alarm user, or lessee of any alarm system shall be allowed three false alarms in a calendar year with no penalty. After the second false alarm, a letter will be sent by the Sheriff's Department to the person indicated as the alarm user informing them of the penalties for the fourth and subsequent offenses. A citation will be issued for fourth or subsequent offenses.

- (1) A forfeiture of \$50.00 shall be assessed, plus court costs, to the alarm user, owner, or lessee for a fourth offense.
- (2) For fifth and subsequent offenses, a forfeiture of \$100.00, plus court costs, shall be assessed against the alarm user, owner, or lessee.

(b) Failure to provide information concerning section 14-83, general requirements, shall result in the following:

- (1) Upon a first offense of the information not having been provided, the alarm user, owner, or lessee shall be sent a letter by the Sheriff's Department informing them of the provisions of this article.
- (2) Thirty days after having been notified of the existence of this article and being given a warning for a first offense, for any second and subsequent offense a citation shall be issued which shall result in a \$50.00 forfeiture, plus Court costs.

(Ord. No. 1990-15, § 4, 3-18-1991)

Sec. 14-85. Cooperation of Alarm User, Owner, or Lessee.

(a) Before an officer can consummate his investigation of an alarm activation, it is necessary for the officer to have the cooperation of the alarm user, owner, lessee, or one of their named contact persons as required by section 14-83. The presence of the alarm user, owner, lessee or one of their named contact persons is needed at the scene of the alarm activation to let the officer into locked premises and to provide the officer with details as to any missing/damaged property. The reason for this is that in the past, officers have notified alarm users, owners, or lessees as to the alarm activation but such persons, on occasion, have refused to appear at the scene. This results in an officer making additional trips to the premises to complete his investigation.

(b) If the Sheriff's Department notifies an alarm user, owner, or lessee, or one of their named contact persons, as to the activation of their alarm and such user, owner, lessee, or contact person fails to appear at the scene within 45 minutes after the Sheriff's Department notifies such person of the alarm activation, the alarm user, owner, or lessees shall be responsible for paying the costs of the officer in making an additional trip to the scene, such costs amounting to the sum of \$75.00 per trip. Such sum shall be paid by the alarm user, owner, or lessee within ten days of receiving a bill from the Sheriff's Department for such costs. The owner, user, or contact person shall be responsible for paying such costs, regardless of whether or not the alarm was false.

(Ord. No. 1990-15, § 5, 3-18-1991)

Chapters 15--17

RESERVED

Chapter 18

ENVIRONMENT*

* **Cross References:** Animals, ch. 6; Buildings and Building Regulations, ch. 10; Floods, ch. 26; Health and Sanitation, ch. 30; Parks and Recreation, ch. 46; Shoreland-Wetland, ch. 50; Solid Waste, ch. 54; General Regulations Regarding Solid Waste Facilities and Hazardous Waste Facilities, § 54-71 et seq.; Streets, Sidewalks and other Public Places, ch. 58; Subdivisions, ch. 62; Utilities, ch. 74; Waterways, ch. 78; Zoning, ch. 82.

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ARTICLE I. LANDSPREADING OF PETROLEUM CONTAMINATED SOIL AND HAZARDOUS SPILLS.

Sec. 18-1. Reserved.

Sec. 18-2. Landspreading of Petroleum Contaminated Soil Brought into County from Elsewhere.

(a) Pursuant to Wis. Stats. §59.64, no person shall deposit on lands located in the County, soil which was removed from property located outside of the County, which is contaminated by petroleum products. This restriction does not apply to landfills properly licensed for the disposal or remediation of petroleum contaminated soils.

(b) Any person violating this section shall cease and remove any soil placed in violation of this section. Further, any person violating this section shall forfeit not less than \$25.00 nor more than \$200.00, plus costs, for each violation. Each day of violation is considered a separate offense.

(c) The County Land & Water Conservation Department shall enforce this section and is

authorized to issue citations for violations of this section. Any Court enforcement is to be handled by the County Corporation Counsel.

(Ord. No. 1996-5, §§ 1--3, 7-16-1996)

Sec. 18-3. Hazardous Spills.

(a) Definitions.

Clean-up means an operation where any solid, liquid, vaporous, or gaseous substance that creates a known, potential or suspected material, safety or health hazard, public nuisance, or a deleterious effect upon the environment is removed, contained, incinerated, neutralized, stabilized, cleared-up, or in any manner processed, handled or disposed of with the primary goals of restoring the site to its pre-incident condition or, secondarily, to make the site harmless to people and the environment. (This language is consistent with the definition of the term “cleanup operation” in 29 CFR 1910.120.)

Emergency response means a response effort by trained employees from outside the immediate incident area or by other designated responders to a known, potential or suspected substance release that results, or is likely to result in an uncontrolled release of a known, potential or suspected material, safety, health or environmental hazard. The intent of defining emergency response in this section is to allow trained personnel to implement and coordinate assessment, containment, cleanup and restoration operations of substance releases within an incident command system in accordance with 29 CFR 1910.120.

Hazardous spill means a release into the ecosystem of the County of any hazardous substance.

Hazardous substance means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. (See Wis. Stat. §299.01(6))

Person means an individual, owner, operator, corporation, limited liability company, partnership, or association. (See Wis. Stat. §299.01(10))

Responding agency means any agency of a county, city, village or town, including a municipal police or fire department, a municipal health organization, a County office of Emergency Management, a County Sheriff, an emergency medical service, a local emergency response team, or a public works department, who responds to a hazardous spill and assists in the clean-up of the hazardous spill.

Strict liability means liability without fault. Specifically, each and every person responsible for containment of a hazardous spill at the point of release into the ecosystem of the County shall assume joint and several responsibility for pecuniary liabilities of those releases for containment, clean-up, restoration expenses and associated administrative fees, legal fees, and court costs. The intent of incorporating strict liability in this section is to reject matters of care, negligence, knowledge, ignorance, good faith, bad faith or any other justification as a cause or reason for being a responsible Person in a substance release incident.

(b) *Emergency response*. The release into the ecosystem of the County of any hazardous

substance within the County, except those occurring during sanctioned waste disposal, hazardous material collection or landfill activities, shall be considered a hazardous spill, unless determined otherwise by a responding agency, and shall be a condition that warrants an emergency response except those occurring during sanctioned waste disposal, hazardous material collection or landfill activities.

(c) *Substance release; containment, cleanup, and restoration.* Upon the direction of any responding agency, any person who causes a hazardous spill or releases a hazardous substance shall begin immediate actions to clean-up the hazardous spill or substance. This provision does not apply to any person sanctioned to perform waste disposal, hazardous material collection or landfill activities.

Failure of any person to clean-up a hazardous spill within an acceptable timeframe shall result in the responding agency ordering that clean-up actions be taken by public or private agencies.

(d) *Pecuniary responsibility.* Any person responsible for clean-up of a hazardous spill per subsection (c) shall be strictly liable for all reasonable and necessary expenses incurred in the clean-up of the released substance, including reimbursement to the responding agencies for all reasonable and necessary expenses incurred in carrying out their duties under this section. Any person that is pecuniary liable under this subsection shall make direct reimbursement to each responding agency.

(e) *Reimbursement.* A responding agency seeking reimbursement under subsection (d) shall submit a claim stating its expenses to the Local Emergency Planning Committee (LEPC). The LEPC shall:

- (1) review claims and determine the amount of reasonable and necessary expenses incurred; and,
- (2) provide any person that is pecuniary liable for reimbursement under subsection (d) with a written notice of the amount of expenses it has determined to be reasonable and necessary that arise from a hazardous spill under subsection (b) that were incurred by all responding agencies from which the LEPC has received a claim.

If a person receiving a notice from the LEPC objects to the amount of claimed expenses, the person may petition the LEPC in writing within ten days of that notice requesting the committee to review its determination. The request must state specific objections to claimed expenses and offer concise rationale for the objections. Unsupported objections will be denied. The LEPC may modify its determination and shall notify the person of the result of its review.

(f) *Site access.* A responding agency shall have access to any site, public or private, where a hazardous spill is located or suspected for the purpose of evaluating the threat to the public and the environment, and for monitoring clean-up activity.

(g) *Public protection.* Should any hazardous spill occur that threatens the life, safety, or health of the public at, near, or around the site of a hazardous spill and the situation is so critical that immediate action must be taken to protect life, safety, or health, the responding agency on the scene may order an evacuation of the area or take other appropriate measures as necessary.

(h) *Enforcement.* The Director of Emergency Management, Sheriff, and Sheriff's Deputies and the law enforcement and fire department officials of their respective local jurisdictions shall have the authority to issue citations or complaints under this section. No person shall obstruct,

hinder, or delay any member of a responding agency in the enforcement of an order, rule, regulation, or plan issued pursuant to the authority contained in this section, or falsely represent himself as a member of the County emergency management organization or any other responding agency.

(i) *Civil liability.* Any person in violation of this section shall be liable to the County for all expenses incurred by the County, and all loss or damage sustained by the County by reason of such violation.

(j) *Penalty.* Any person who violates any provision of this section shall be subject to a penalty of up to \$1,000.00 or one year in the County Jail, or both.

(Ord. No. 1993-1, §§1--8b, 4-19-1993; Ord. No. 2012-14, 3-20-2012)

Sec. 18-4. Hazardous Waste Inspection Process.

(a) Hazardous waste and toxic substances are a major concern in the acquisition and ownership of real estate. Federal and State statutes and regulations impose severe restrictions and significant economic sanctions upon the owners of real estate containing hazardous waste and toxic substances. The purpose of this section is to prevent the acquisition, knowingly or unknowingly, of lands by the County containing hazardous waste and toxic substances.

(b) All interest in real estate acquired by the County, pursuant to Wis. Stats. Chapters 75, 59, 32, 83, or by any other method, shall be subject to this section. The purchase of property for highways and the purchase of highway rights-of-way and easements are also subject to this section.

(c) Prior to the acquisition or the execution of any agreement to purchase real estate or prior to the filing of any foreclosure proceedings for delinquent taxes in the county, the responsible County department shall make referral of the matter to the Public Grounds and Property Committee. No acquisitions by any County department shall be valid after the passage of the ordinance from which this section is derived unless the Public Grounds and Property Committee site assessment has been completed.

(d) Upon receiving referral from any County department proposing real estate acquisition or foreclosure of property by the County, pursuant to Wis. Stats. §§75, 59, 32 and 83, the Public Grounds and Property Committee shall, within 20 days of such referral, inspect the premises to make an initial determination as to whether or not there is a reasonable basis to believe hazardous waste or toxic substances may exist on or beneath the surface of such premises. If the committee finds that no hazardous waste or toxic substances are present, the Public Grounds and Property Committee shall, on appropriate forms, return approval to the referring department. If the Public Grounds and Property Committee has reason to believe that hazardous waste may be located on a site being examined by the Public Grounds and Property Committee, the Public Grounds and Property Committee shall reject the proposed acquisition of such property containing hazardous waste and shall apprise the interested department of such rejection. If the Public Grounds and Property Committee rejects the proposed purchase or foreclosure of property due to the fact that it believes that hazardous waste may be located on the site being inspected, the Public Grounds and Property Committee shall make referral of this matter to the environmental protection agency and the State Department of Natural Resources for proposed cleanup and inspection by such governmental agencies.

- (e) In making the assessment, the Public Grounds and Property Committee may utilize as resources all agencies and departments of the County.
- (f) The Public Grounds and Property Committee shall not be personally liable or responsible for decisions made or judgments rendered in implementing this section.
- (g) The terms "hazardous waste" and "toxic substances" include all wastes and substances deemed hazardous or extra-hazardous including underground petroleum and oil storage tanks and any other substances deemed by the EPA or the DNR to represent a threat to public safety.
- (h) It is desirable that each member of the Public Grounds and Property Committee complete, if possible, a training course on hazardous waste/toxic substances.
(Ord. No. 1990-14, §§1--8, 2-19-1991)

ARTICLE II. NONMETALLIC MINING ORDINANCE.

Sec. 18-5. Title.

Nonmetallic Mining Reclamation Ordinance for the County of Calumet, Wisconsin.

Sec. 18-6. Purpose.

The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Calumet County after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.

Sec. 18-7. Statutory Authority.

This chapter is adopted under authority of §295.13(1), Wisconsin Statutes, §NR 135.32, Wisconsin Administrative Code, and §59.51, Wisconsin Statutes.

Sec. 18-8. Restrictions Adopted Under Other Authority.

The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining reclamation required by §295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law.

Sec. 18-9. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements

or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

Sec. 18-10. Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this chapter shall not be affected.

Sec. 18-11. Applicability.

(a) Overall Applicability. The requirements of this chapter apply to all operators of nonmetallic mining sites within Calumet County except as exempted in sec.18-11(b) and for nonmetallic mining sites located in a city, village or town within Calumet County that has adopted an ordinance pursuant to §295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code. This chapter does not apply to nonmetallic mining sites where nonmetallic mining permanently ceases before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of Calumet County, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in sec. 18-18.

(b) Exemptions. This chapter does not apply to the following activities:

- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under §§30.19, 30.195 or 30.20, Stats., and complies with Chapter NR 340, Wisconsin Administrative Code.
- (2) Excavations subject to the permit and reclamation requirements of §§30.30 or 30.31, Stats.
- (3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
- (5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (6) Excavations for building construction purposes conducted on the building site.
- (7) Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.
- (8) Any mining operation, the reclamation of which is required in a permit obtained under Chapter 293, Stats.

(9) Any activities required to prepare, operate or close a solid waste disposal facility under Chapter 289, Stats., or a hazardous waste disposal facility under Chapter 291, Stats., that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(10) Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

(a) This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

(b) If a nonmetallic mining site covered under pars. (a) and (b) is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(11) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(12) The excavation of ponds, regardless of size, if all excavated materials remain on the site during its construction and after its completion.

(13) The excavation of ponds, regardless of size, if contained within designated wetland or shoreland areas which do not permit the stockpiling, or use, of the excavated materials on the site.

Sec. 18-12. Administration.

The provisions of this chapter shall be administered by the Calumet County Planning, Zoning, Land and Water Conservation Committee, its staff, and/or its designated Administering Agency.

Sec. 18-13. Effective Date.

The provisions of this chapter shall take effect on July 1, 2001 and shall be based on the language contained in Chapter NR-135, Wisconsin Administrative Code as of that date. All provisions of Chapter NR-135 shall apply until amended and then shall apply as amended.

Sec. 18-14. Definitions. In this chapter:

(a) "Administering Agency" means a public or private entity which oversees the provisions and requirements of the Nonmetallic Mining Reclamation Ordinance through a contractual agreement, approved by Calumet County, which spells out certain authorities, activities, and responsibilities of the contracted entity.

(b) "Alternative requirement" means an alternative to the reclamation standards of this chapter provided through a written authorization granted by Calumet County, and subsequently, its Administering Agency pursuant to sec. 18-22.

(c) "Applicable reclamation ordinance" means a nonmetallic mining reclamation ordinance, including this chapter, that applies to a particular nonmetallic mining site and complies with the requirements of this Chapter, NR 135, Wisconsin Administrative Code and Subchapter I of §295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in sec. 18-14. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.

(d) "Borrow site" means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site. This term does not include areas which provide materials for any commercial sales or uses other than those related to the transportation project.

(e) "Contemporaneous reclamation" means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

(f) "Department" means the Wisconsin Department of Natural Resources.

(g) "Environmental pollution" has the meaning in § 295.11(2), Stats.

(h) "Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in sec. 18-18 and is sufficient to pay for reclamation activities required by this chapter.

(i) "Highwall" means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

(j) "Landowner" means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

(k) "Licensed professional geologist" means a person who is licensed as a professional geologist pursuant to ch. 470, Stats.

(l) "Municipality" means Calumet County or any of its cities, towns, or villages.

(m) "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic

minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(n) "Nonmetallic mining" or "mining" means all of following:

(1) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator.

Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as topsoil removal, excavation, grading and dredging.

Nonmetallic mining does not include 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.

(2) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the same nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping, pulverizing, and dewatering.

(o) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining Reclamation Plan approved under this chapter, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(p) "Nonmetallic mining refuse" means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(q) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in par. (a), subject to the qualifications in par. (b).

(1) Nonmetallic mining site means the following:

(a) The location where nonmetallic mining is proposed or conducted.

(b) Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.

(c) Areas where nonmetallic mining refuse is deposited.

(d) Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.

(e) Areas where grading or re-grading is necessary.

(f) Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, re-vegetation test plots, or channels for surface water diversion, are located.

(2) "Nonmetallic mine site" does not include any of the following areas:

(a) Those portions of sites listed in sec. 18-14.(q)(1)(a) not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.

(b) Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

(c) Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

(d) Areas no longer being actively mined after August 1, 2001 but are still carrying out related nonmetallic mining process as cited in sec. 18-14.(n)(2), and uses materials mined from a different site.

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

(s) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

(t) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to §443.04, Stats.

(u) "Regulatory authority" means the following:

(1) Calumet County or its authorized Administering Agency for nonmetallic mine sites located within Calumet County's jurisdiction, or

(2) A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance,

(v) "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining reclamation for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the Reclamation Plan approved pursuant to this chapter.

(w) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 283, Stats., or source material, special nuclear material or by-product material, as defined in §254.31 (1), Stats.

(x) "Topsoil" means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the Reclamation Plan.

(y) "Topsoil substitute material" means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the Reclamation Plan.

(z) "Un-reclaimed acre" or "Un-reclaimed acres" means those un-reclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sec. 18-34. "Un-reclaimed acre" or "un-reclaimed acres" does not include:

(1) Those areas where reclamation has been completed and certified as reclaimed under sec. 18-34.

(2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

(3) Those portions of nonmetallic mining sites which are included in a nonmetallic mining Reclamation Plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.

(4) Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

(5) For purposes of fees under sec. 18-31, those areas within a nonmetallic mining site which Calumet County or its Administering Agency has determined to have been successfully reclaimed on an interim basis in accordance with sec. 18-34.

Sec. 18-15. Standards.

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below.

(a) GENERAL STANDARDS for nonmetallic mining site reclamation shall be as follows:

(1) REFUSE AND OTHER SOLID WASTES. Nonmetallic mining refuse shall be reused in accordance with a Reclamation Plan. Other solid wastes shall be disposed of in

accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to §§289 and 291, Stats.

(2) AREA DISTURBED AND CONTEMPORANEOUS RECLAMATION. Nonmetallic mining reclamation shall be conducted in phases, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(3) PUBLIC HEALTH, SAFETY AND WELFARE. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(4) HABITAT RESTORATION. When the land use required by the Reclamation Plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition equivalent to, or better than, that which existed before the lands were affected by nonmetallic mining operations.

(5) COMPLIANCE WITH ENVIRONMENTAL REGULATIONS. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

Note to Reader: Other applicable environmental, zoning or land use regulations may include Chapters NR 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 340, 500-590, and 812, Wisconsin Administrative Code, §§30 and 91, Stats., and Section 404 of the Clean Water Act (33 USC s. 1344), which may be applicable to all or part of either an existing or proposed nonmetallic mining project, so long as they do not require or directly regulate the reclamation of nonmetallic mining sites as addressed under Subchapter I of Chapter 295, Stats .

(b) SURFACE WATER AND WETLANDS PROTECTION. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for erosion control, diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the Reclamation Plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties. Standards for the review of this section may be based on methods contained in the WDNR publication entitled "Wisconsin Construction Site Best Management Practice Handbook"

(c) GROUNDWATER PROTECTION standards shall be as follows:

(1) GROUNDWATER QUANTITY. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that result in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(2) GROUNDWATER QUALITY. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140,

Wisconsin Administrative Code to be exceeded at a point of standards application defined in that chapter.

(d) TOPSOIL MANAGEMENT standards shall be as follows:

(1) REMOVAL. Topsoil and topsoil substitute material shall be provided as specified in the Reclamation Plan approved pursuant to this chapter in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal, when specified in the Reclamation Plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.

(2) VOLUME. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the Reclamation Plan approved pursuant to this chapter.

Note to Reader: Existing resources that may be used to identify the soil present on a site include the County Soil Surveys and information obtained from a soil scientist or the County Extension Agent or other available resources. Topsoil or topsoil substitute material shall be removed from areas to be affected by mining operations to the depth indicated in the Reclamation Plan or as determined in the field by a soil scientist, project engineer or other qualified professional.

(3) STORAGE. Once removed, topsoil or topsoil substitute material shall, as required by the Reclamation Plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(e) FINAL GRADING AND SLOPE standards shall be as follows:

(1) All areas affected by mining shall be addressed in the approved Reclamation Plan, pursuant to this chapter to provide that a stable and safe condition consistent with the post-mining land use is achieved. The Reclamation Plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the Reclamation Plan will not be adversely affected.

(2) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under secs.18-22; steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved Reclamation Plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the

nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(3) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

Note to Reader: Exposed vertical, or nearly vertical, rock faces which are stable and integrated into the overall Reclamation Plan for the purposes of habitat, aesthetics, or other reason may be acceptable; however, the operator will need to have these approved as an "alternative requirement" (sec. 18-22).

(f) TOPSOIL REDISTRIBUTION FOR RECLAMATION. Topsoil or topsoil substitute material shall be redistributed in accordance with the Reclamation Plan approved pursuant to this chapter in a manner which minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(g) RE-VEGETATION AND SITE STABILIZATION. Except for permanent roads or similar surfaces identified in the Reclamation Plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by re-vegetation or other means. Re-vegetation and site stabilization shall be in accordance with the approved Reclamation Plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(h) ASSESSING COMPLETION OF SUCCESSFUL RECLAMATION shall be complete using the following standards:

(1) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the Reclamation Plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.

(2) Compliance with the re-vegetation success standards in the approved Reclamation Plan shall be determined by:

- a. On-site inspections by Calumet County or its Administering Agency;
- b. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo-documentation or other evidence that the criteria approved in the Reclamation Plan to ascertain success have been met; or
- c. A combination of inspections and reports.

(3) In those cases where the post mining land use specified in the Reclamation Plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

(4) Re-vegetation success may be determined by:

- a. Comparison to an appropriate reference area;
- b. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
- c. Comparison to an approved alternate technical standard.
- d. The re-vegetated area must be in a viable growing condition for at least one growing season in order to be considered as reclaimed.

(5) Re-vegetation using a variety of plants indigenous to the area is favored.

(i) INTERMITTENT MINING. Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's Reclamation Permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to sec. 18-18 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(j) MAINTENANCE. During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the Reclamation Plan approved pursuant to this chapter.

Sec. 18-16. Nonmetallic Mining Reclamation Permit Application.

(a) Nonmetallic Mining Reclamation Permit Application Required. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a Nonmetallic Mining Reclamation Permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 18-11 or 18-14.q(2).

(b) Required Submittal. All operators of nonmetallic mining sites shall apply for a Reclamation Permit from the Administering Agency. All applications for Reclamation Permits under this section shall include, but is not limited to, the following information:

- (1) A brief description of the general location and nature of the nonmetallic mine.
- (2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address and telephone number of the person or organization who is the operator.
- (5) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by sec. 18-15, et al.

(6) Other information as deemed necessary by the Administering Agency to adequately assess the current site ownership, location, or conditions.

(c) Reclamation Permit Application Contents. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to:

Calumet County Land & Water Conservation Department
c/o NR-135 Coordinator
206 Court St., Chilton, WI 53014

prior to beginning operations. This application shall be accompanied by a plan review fee as specified in sec. 18-30.

- (1) The information required by sec. 18-16.
- (2) The plan review and annual fees required by secs. 18-30 and 18-31.
- (3) A Reclamation Plan conforming to sec. 18-17.
- (4) A certification that the operator will provide, as a condition of the Reclamation Permit, provide financial assurance as required by sec. 18-18 upon granting of the Reclamation Permit and before mining begins.
- (5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

Sec. 18-17. Reclamation Plan.

(a) Reclamation Plan Required. All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a Reclamation Plan that meets the following requirements.

- (1) PLAN REQUIRED. An operator who conducts or plans to conduct nonmetallic mining shall submit to the Administering Agency a Reclamation Plan that meets the requirements of- and complies with the reclamation standards of sec. 18-15, et al.
- (2) SITE INFORMATION. The Reclamation Plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:
 - (a) Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and existing drainage patterns, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the Reclamation Plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.

- (b) Topsoil or topsoil substitute material, if required to support re-vegetation needed for reclaiming the site to approved post-mining land use, can be identified using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.
- (c) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
- (d) Existing topography as shown on contour maps of the site at four foot intervals and are based on U.S.G.S. elevations.
- (e) Location of manmade features on or near the site.
- (f) Other suitable benchmarks locations as required to determine areal extent of site activities or uses.
- (g) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.
- (h) Other information as deemed necessary by the Administering Agency to adequately assess the current site ownership, location, or conditions.

(3) POST-MINING LAND USE.

- (a) The Reclamation Plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed and approved. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

Note to Reader: A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use will be key in determining the Reclamation Plan. Final slopes, drainage patterns, site hydrology, seed mixes and the degree of removal of mining-related structures, drainage structures, and sediment control structures will be dictated by the approved post-mining land use.

- (b) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to §91.75, Stats., shall be restored to agricultural use.

Note to Reader: Section 91.75(9), Stats., contains this requirement. Section 91.01(1), Stats., defines the term "agricultural use".

- (4) RECLAMATION MEASURES. The Reclamation Plan shall include a description of the proposed reclamation, including methods and procedures to be

used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

- (a) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures, and if necessary a site-specific engineering analysis performed by a registered professional engineer.
- (b) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
- (c) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
- (d) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
- (e) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
- (f) A re-vegetation plan, which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
- (g) Quantifiable standards for re-vegetation adequate to show that a sustainable stand of vegetation has been established which would support the approved post-mining land use. Standards for re-vegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
- (h) A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.
- (i) A description of any areas, which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to sec. 18-33.(b) and 18-33.(d) and release of financial assurance pursuant to sec. 18-33, and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in sec. 18-15, et al. and timing of interim and final reclamation.
- (j) A description of how the Reclamation Plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

Note: Safety measures include: visual warnings, physical barriers, slope modifications such as reclamation blasting, scaling of the rock face, creation of benches. Other measures may be employed if found to be equivalent by a registered professional engineer.

(5) **CRITERIA FOR SUCCESSFUL RECLAMATION.** The Reclamation Plan shall contain criteria for assuring successful reclamation in accordance sec. 18-15.

(6) **CERTIFICATION OF RECLAMATION PLAN.** The operator shall provide a signed certification that reclamation will be carried out in accordance with the Reclamation Plan. If the operator does not own the land, the landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the Reclamation Plan and will allow its implementation.

(b) **Existing Plans and Approvals.** To avoid duplication of effort, the Reclamation Plan required may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

(c) **Approval of Reclamation Plan.** The Administering Agency shall approve, conditionally approve or deny the Reclamation Plan submitted under this section in writing in accordance with sec. 18-20 for mines that apply for a Reclamation Permit in conformance with sec. 18-16. Conditional approvals of Reclamation Plans shall be made according to sec. 18-20 and denials of Reclamation Plans shall be made pursuant to sec. 18-21. The operator shall keep a copy of the Reclamation Plan approved under this subsection at the mine site or, if not practicable, at the operator's nearest place of business.

Sec. 18-18. Financial Assurance.

(a) **Financial Assurance Requirements.** All operators of nonmetallic mining sites in Calumet County shall prepare and submit a proof of financial assurance that meets the following requirements:

(1) **NOTIFICATION.** The Administering Agency shall provide written notification to the operator of the amount of financial assurance required under sub. (3).

(2) **FILING.** Following approval of the nonmetallic mining Reclamation Permit, and as a condition of the permit, the operator shall file a financial assurance within Calumet County and payable exclusively to the Administering Agency. The financial assurance shall provide that the operator shall faithfully perform all requirements in this chapter, an applicable reclamation ordinance and the Reclamation Plan. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the Administering Agency only if it currently has primary regulatory responsibility.

(3) **AMOUNT AND DURATION OF FINANCIAL ASSURANCE.** The amount of financial assurance shall equal as closely as possible the cost to the Administering Agency of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved Reclamation Plan. The amount of financial assurance shall be reviewed periodically by the Administering Agency to assure it equals outstanding reclamation costs. Any financial assurance filed with the Administering Agency shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The Administering Agency may accept a lesser initial

amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the Reclamation Plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the Reclamation Plan.

(4) FORM AND MANAGEMENT. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to the Administering Agency and released upon successful completion of the reclamation measures specified in the Reclamation Plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of the Administering Agency, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(5) MULTIPLE PROJECTS. Any operator who obtains a permit from the Administering Agency for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the Administering Agency.

(6) MULTIPLE JURISDICTIONS. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.

(7) CERTIFICATION OF COMPLETION AND RELEASE.

(a) The operator shall notify the Administering Agency, by filing a Notice of Completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. The Administering Agency shall inspect the mine site or portion thereof that was the subject of the Notice of Completion to determine if reclamation has been carried out in accordance with the approved Reclamation Plan. Administering Agency may partially release the financial assurance if it determines that compliance with a portion of the Reclamation Plan has been achieved and requires no waiting period. After

determining that reclamation is complete the Administering Agency shall issue a Certificate of Completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

(b) The Administering Agency shall make a determination of whether or not the certification in par. (a) can be made within 60 days that the request is received.

(c) The Administering Agency may make a determination under this subsection that:

1. Reclamation is not yet complete;
2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
3. Reclamation is complete in a part of the mine; or
4. Reclamation is fully complete.

(8) FORFEITURE. Financial assurance shall be forfeited if any of the following occur:

(a) A permit is revoked under sec. 18-28 and the appeals process has been completed.

(b) An operator ceases mining operations and fails to reclaim the site in accordance with the Reclamation Plan.

(9) CANCELLATION. Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90 day notice to the Administering Agency in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the Administering Agency a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(10) CHANGING METHODS OF FINANCIAL ASSURANCE. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to sec. 18-18.(a)(12). The operator shall give the Administering Agency at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the Administering Agency.

(11) BANKRUPTCY NOTIFICATION. The operator of a nonmetallic mining site shall notify the Administering Agency by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(12) ADJUSTMENT OF FINANCIAL ASSURANCE. Financial assurance may be adjusted when required by the Administering Agency. The Administering Agency may notify the operator in writing that adjustment is necessary and the reasons for it. The

Administering Agency may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(13) NET WORTH TEST.

(a) Only an operator that meets the definition of “company” in §289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.

(b) The operator shall submit information to the Administering Agency in satisfaction of the net worth test requirements of §289.41 (4), Stats. The criteria in §§289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.

(c) An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with §289.41 (6), Stats.

(d) Determinations under the net worth test shall be done in accordance with §289.41 (5), Stats.

(e) In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.

(b) Private Nonmetallic Mines. The operator of any nonmetallic mining site that applies for a Reclamation Permit in conformance with sec. 18-16 shall submit the proof of financial assurance required by sec. 18-18 as specified in the Reclamation Permit issued to it under this chapter.

(c) Public Nonmetallic Mining. The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a State Agency, board, commission or department, or a municipality.

Sec. 18-19. Public Notice and Right of Hearing.

(a) Reclamation Plan Hearing. The Administering Agency shall provide public notice and the opportunity for a public informational hearing as set forth below:

(1) PUBLIC NOTICE. When the Administering Agency receives a complete application that satisfies sec. 18-16 to issue a Reclamation Permit, it shall publish a public notice of the application no later than 30 days after receipt of the application.

(a) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 2 notice pursuant to §985.07(2), Stats., in the official newspaper of Calumet County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the Reclamation Plan.

(b) Copies of the notice shall be forwarded by the Administering Agency to the County or applicable municipal zoning board, the County and applicable local planning organization, the County land conservation officer, the clerk of the

municipality, and owners of land within 500 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) HEARING. The Administering Agency shall provide for an opportunity for a public informational hearing on an application or request to issue a Nonmetallic Mining Reclamation Permit as follows.

(a) If Calumet County, or other municipality, conducts a zoning-related hearing on the nonmetallic mine site, it shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This hearing will be noticed and conducted in a manner consistent with provisions already established by the municipality. This testimony will be forwarded to the Administering Agency for their consideration prior to the issuance of a Nonmetallic Mining Reclamation Permit. This opportunity shall fulfill the requirement for public hearing for a Nonmetallic Mining Reclamation Permit required by this section. The Administering Agency shall consider the reclamation-related testimony in the County's zoning-related hearing in deciding on a permit application pursuant to this chapter.

(b) If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in par. (a), opportunity for public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 500 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. The Administering Agency shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The hearings shall be conducted according to the following procedures:

1. The Administering Agency's Program Coordinator or other designee will be the Presiding Officer.
2. The Presiding Officer will open the public informational hearing and make a concise statement of its scope and purpose.
3. Any affected person will be given an opportunity to appear and present their view on the subject matter of the informational hearing.
4. Any person desiring to participate, whether on his or her own behalf or in a representative capacity, shall give his or her name and address, the name and address of any person being represented, and the capacity in which he or she is representing such person.
5. Statements should be kept concise and may be submitted in written form (prior to the start of the hearing) or oral form.

6. The Presiding Officer shall determine the order in which people may make statements, the length of statements, and impose other limitations deemed prudent if the statements are unduly repetitious. Clarifying questions of those who speak may be allowed by the Presiding Officer; however, cross-examination of those who speak is not permitted.

7. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

Note: Informational hearings are limited to reclamation of the nonmetallic mining site. Regulatory authority staff conducting the hearings should make it clear that the hearings may not cover non-reclamation matters because they are beyond the scope of NR135 reclamation. Non-reclamation matters are those related to zoning or subject to other local authority. These matters may include but are not limited to: traffic, setbacks, blasting, dewatering, hours of operation, noise or dust control or the question of whether to use the land for mining.

(b) Local Transportation-Related Mines. No public notice or informational hearing is required for a Nonmetallic Mining Reclamation Permit issued to a local transportation-related mine pursuant to sec. 18-20.

Sec. 18-20. Issuance of a Nonmetallic Mining Reclamation Permit.

(a) Permit Required. No person may engage in nonmetallic mining or nonmetallic mining reclamation in Calumet County without first obtaining a Reclamation Permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter under secs. 18-11 or 18-14.q(2)

(b) Permit Issuance. Applications for Reclamation Permits for nonmetallic mining sites that satisfy sec. 18-16 shall be issued a Reclamation Permit or otherwise acted on as provided below.

(1) Unless denied pursuant to sec. 18-21, the Administering Agency shall approve in writing a request that satisfies the requirements of sec. 18-16 to issue a nonmetallic mining Reclamation Permit for the proposed nonmetallic mine.

(2) The Administering Agency may not issue an approval without prior or concurrent approval of the Reclamation Plan that meets the requirements of sec. 18-17. The Administering Agency may issue a Reclamation Permit subject to conditions in sec. 18-20 if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete Reclamation Permit application that meets the requirements in sec. 18-16 and Reclamation Plan that meets the requirements in sec. 18-17, unless a public hearing is held pursuant to sec. 18-19. If a public hearing is held, the Administering Agency shall issue the Reclamation Permit, subject to conditions pursuant to sec. 18-20 if appropriate, or shall deny the permit as provided in sec. 18-21 not later than 60 days after completing the public hearing.

(3) Permits issued pursuant to this subsection shall require compliance with a Reclamation Plan that has been approved and satisfies the requirements of sec. 18-17 and provision by the applicant of financial assurance required under sec. 18-18 and payable to The Administering Agency prior to beginning mining.

(c) Automatic Permit for Local Transportation-Related Mines.

(1) The Administering Agency shall automatically issue an expedited permit under this subsection to any borrow site that:

- (a) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;
- (b) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
- (c) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites;
- (d) Is not a commercial source;
- (e) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any and;
- (f) Is not otherwise exempt from the requirements of this chapter under sec. 18-11.

(2) In this subsection, “municipality” has the meaning defined in §299.01(8), Stats.

(3) Automatic permits shall be issued under this subsection in accordance with the following provisions:

- (a) The applicant shall notify the Administering Agency of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
- (b) The applicant shall provide evidence to the Administering Agency to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
- (c) The Administering Agency shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a Reclamation Plan under sec. 18-17.
- (d) The Administering Agency shall accept the contractual provisions in lieu of the financial assurance requirements in sec. 18-18.
- (e) The public notice and hearing provisions of sec. 18-19 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.
- (f) Mines permitted under this subsection shall pay an annual fee to the Administering Agency as provided in sec. 18-31, but shall not be subject to the plan review fee provided in sec. 18-30. The total annual fee, including the share of the Department of Natural Resources, shall not exceed the amount specified in sec. 18-31(b).

(g) The Administering Agency shall issue the automatic permit within seven days of the receipt of a complete application.

(h) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.

(i) Notwithstanding sec. 18-29, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

Note: A Reclamation Permit is not required under this chapter for nonmetallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by §295.16(1)(c), Stats.

(d) Expedited Review. Any operator of a nonmetallic mining site as described in sec. 18-20 sub. (1) may request expedited review of a Reclamation Permit application under sub. (1) or sub. (2) as follows:

(1) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in sec. 18-30. This request shall state the need for such expedited review and the date by which such expedited review is requested.

(2) This request for expedited review shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.

(3) Following receipt of a request under this subsection The Administering Agency shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under sub. (1) shall be returned.

(4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to sec. 18-19. This subsection does not impose an obligation upon the Administering Agency to act upon a permit application under this subsection by a specific date.

(e) Permit Conditions. Any decision under this section may include conditions as provided below:

(1) The Administering Agency may issue a Reclamation Permit or approve a Reclamation Plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this chapter. The approvals may not include conditions that are not related to reclamation.

Note: It is not appropriate for the regulatory authority to impose conditions on a Reclamation Permit, or the approval of a Reclamation Plan that address matters not directly related to nonmetallic mining reclamation. These matters may include but are not limited to: traffic

setbacks, blasting, dewatering, hours of operation, noise or dust control or the question of whether to use the land for mining.

(2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to sec. 18-18 prior to beginning mining.

Sec. 18-21. Permit Denial.

An application for a nonmetallic mining Reclamation Permit shall be denied as set forth below:

(a) An application to issue a Nonmetallic Mining Reclamation Permit shall be denied, within the time frame for permit issuance specified in sec. 18-20, if the Administering Agency finds any of the following:

(1) The applicant has, after being given an opportunity to make corrections, failed to provide to the Administering Agency an adequate permit application, Reclamation Plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.

(2) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this chapter, Chapter NR 135, Wisconsin Administrative Code or Subchapter I. of §295, Stats.

(3) The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to nonmetallic mining reclamation.

A. The following may be considered in making this determination of a pattern of serious violations:

1. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

2. Suspensions or revocations of nonmetallic mining Reclamation Permits pursuant to this chapter, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.

3. Forfeitures of financial assurance.

(b) A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

(c) A decision to deny an application to issue a Reclamation Permit may be reviewed under sec. 18-26.

Sec. 18-22. Alternative Requirements.

(a) Scope of Alternative Requirements Approvable. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in sec. 18-15.

The Administering Agency may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates, and the Calumet County Land and Water Conservation Committee finds, that all of the following criteria are met:

(1) The nonmetallic mining site, the surrounding property or the mining plan or Reclamation Plan has a unique characteristic, which requires an alternative requirement.

(2) Unnecessary hardship, which is peculiar to the nonmetallic mining site or plan, will result unless the alternative requirement is approved. Financial considerations, matters of convenience or preference, and self-imposed hardships shall not be deemed or considered to be “unnecessary hardships”.

(3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

(b) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in sec. 18-22 shall demonstrate all the criteria in sec. 18-22. This shall be submitted in writing to the Administering Agency at the address below:

Calumet County Land & Water Conservation Department
c/o: NR-135 Coordinator
206 Court St., Chilton, WI 53014

(1) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining Reclamation Permit.

(2) A public hearing shall be required for any alternative requirement request.

(3) Additional costs for third-party, independent engineering, or other reviews if deemed necessary for an alternative requirement, shall be the responsibility of the applicant.

(c) Review Authority. The decision on a request for alternate reclamation requirements shall be addressed by the Calumet County Land and Water Conservation Committee at a regularly scheduled meeting within 60 days of the request.

(d) Public Notice and Right of Hearing. The Administering Agency shall provide public notice and the opportunity for a public informational hearing as set forth below:

(1) PUBLIC NOTICE. When the Administering Agency receives an application for an alternative requirement, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies sec. 18-22.

(a) The notice shall briefly describe the alternative requirement requested and its relationship to the standards contained in sec. 18-15. The notice shall be published as a class 2 notice pursuant to §985.07(2), Stats., in the official newspaper of Calumet County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the Reclamation Plan.

(b) Copies of the notice shall be forwarded by the Administering Agency to the County or applicable municipal zoning board, the County and applicable local planning organization, the County land conservation officer, the clerk of the municipality, and owners of land within 500 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) HEARING. Except as provided in sub. (3) for existing mines the Administering Agency shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining Reclamation Permit as follows.

(a) Any person residing within, owning property within, or whose principal place of business is within 500 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. The Administering Agency shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The hearings shall be conducted according to the following procedures:

1. The Administering Agency's Program Coordinator or other designee will be the Presiding Officer.
2. The Presiding Officer will open the public informational hearing and make a concise statement of its scope and purpose.
3. Any affected person will be given an opportunity to appear and present their view on the subject matter of the informational hearing.
4. Any person desiring to participate, whether on his or her own behalf or in a representative capacity, shall give his or her name and address, the name and address of any person being represented, and the capacity in which he or she is representing such person.
5. Statements should be kept concise and may be submitted in written form (prior to the start of the hearing) or oral form.
6. The Presiding Officer shall determine the order in which people may make statements, the length of statements, and impose other limitations deemed prudent if the statements are unduly repetitious. Clarifying questions of those who speak may be allowed by the Presiding Officer; however, cross-examination of those who speak is not permitted.
7. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

(e) Transmittal of Decision on Request for Alternative Requirement. The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.

(f) Notice to Wisconsin Department of Natural Resources. The Administering Agency shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under sec. 18-22 sub. (2)(d) on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

Sec. 18-23. Permit Duration.

(a) A Nonmetallic Mining Reclamation Permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to sec. 18-28.

(b) If the mine operator is not the landowner, the Reclamation Permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to sec. 18-24.

Sec. 18-24. Permit Transfer.

A Nonmetallic Mining Reclamation Permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(a) A Nonmetallic Mining Reclamation Permit may be transferred to a new operator upon submittal to the Administering Agency adequate proof of site ownership, financial assurance, and a certification in writing by the new permit holder that all conditions of the permit will be complied with;

(b) Submission of the appropriate fee per Schedule A of this Ordinance.

(c) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the Administering Agency and the Administering Agency makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

Sec. 18-25. Previously Permitted Sites.

For any nonmetallic mining site which had a Reclamation Permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to Reclamation Permitting authority of Calumet County and/or its Administering Agency, the terms and conditions of the previously-issued municipal Reclamation Permit shall remain in force until modified by Calumet County or its Administering Agency sec. 18-27.

Sec. 18-26. Review.

Any permitting decision or action made by Calumet County or its Administering Agency under this chapter may be reviewed as set forth in this section. Notwithstanding §§68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of §227.42 (1), Stats., may obtain a contested case hearing under §68.11, Stats., on Calumet County's or the Administering Agency's decision to issue, deny or modify a nonmetallic mining Reclamation Permit.

Sec. 18-27. Permit Modification.

(a) By the Administering Agency. A nonmetallic mining Reclamation Permit issued under this chapter may be modified by the Administering Agency if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter. Such modification shall be by an order modifying the permit in accordance with sec. 18-36. This modifying order may require the operator to amend or submit new application information, Reclamation Plan, proof of financial assurance or other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this chapter.

(1) The operator shall not pay a separate fee for modifications initiated or required by Calumet County or its Administering Agency.

(b) At the Operator's Option. If operator of any nonmetallic mine that holds a Reclamation Permit issued under this chapter desires to modify such permit or Reclamation Plan approved under this chapter, it may request such modification by submitting a written application for such modification to the Administering Agency. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter in effect at the time of the request.

(1) The operator shall pay the fee as outlined in Schedule A for any requested permit modifications at the time of the request.

(c) Required by the Operator. The operator of any nonmetallic mine that holds a Reclamation Permit issued under this chapter shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the Reclamation Plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(1) The operator shall pay the fee as outlined in Schedule A for any requested permit modifications at the time of the request.

(d) Public Notice Hearing Requirements.

(1) A public hearing shall be required for any substantial permit modification, which is requested by the operator.

(2) PUBLIC NOTICE. When the Administering Agency receives an application for an alternative requirement, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies sec. 18-22.

(a) The notice shall briefly describe the permit modification requested and its relationship to the standards contained in sec. 18-15. The notice shall be published as a class 2 notice pursuant to §985.07(2), Stats., in the official newspaper of Calumet County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the Reclamation Plan.

(b) Copies of the notice shall be forwarded by the Administering Agency to the county or applicable municipal zoning board, the County and applicable local

planning organization, the County land conservation officer, the Clerk of the municipality, and owners of land within 500 feet of the boundaries of the parcel or parcels of land on which the site is located.

(3) HEARING. The Administering Agency shall provide for an opportunity for a public informational hearing on an application or request to issue a Nonmetallic Mining Reclamation Permit as follows.

(a) Any person residing within, owning property within, or whose principal place of business is within 500 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. The Administering Agency shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation. The hearings shall be conducted according to the following procedures:

1. The Administering Agency's Program Coordinator or other designee will be the Presiding Officer.
2. The Presiding Officer will open the public informational hearing and make a concise statement of its scope and purpose.
3. Any affected person will be given an opportunity to appear and present their view on the subject matter of the informational hearing.
4. Any person desiring to participate, whether on his or her own behalf or in a representative capacity, shall give his or her name and address, the name and address of any person being represented, and the capacity in which he or she is representing such person.
5. Statements should be kept concise and may be submitted in written form (prior to the start of the hearing) or oral form.
6. The Presiding Officer shall determine the order in which people may make statements, the length of statements, and impose other limitations deemed prudent if the statements are unduly repetitious. Clarifying questions of those who speak may be allowed by the Presiding Officer; however, cross-examination of those who speak is not permitted.
7. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

(e) Review. All actions by Calumet County or its Administering Agency on permit modifications requested or initiated under this section are subject to review under sec. 18-26.

Sec. 18-28. Permit Suspension and Revocation.

(a) Grounds. The Administering Agency may suspend or revoke a Nonmetallic Mining Reclamation Permit issued pursuant to this chapter if it finds the operator has done any of the following:

(1) Failed to submit a satisfactory Reclamation Plan within the time frames specified in this chapter.

(2) Failed to submit or maintain financial assurance as required by this chapter.

(3) Failed on a repetitive and significant basis to follow the approved Reclamation Plan.

(b) Procedures. If the Administering Agency finds grounds for suspending or revoking a Nonmetallic Mining Reclamation Permit set forth in sec. 18-28, it may issue a special order suspending or revoking such permit as set forth in sec. 18-36.

(c) Consequences.

(1) If the Administering Agency makes any of the findings in sec. 18-28, it may suspend a Nonmetallic Mining Reclamation Permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to sec. 18-36.

(2) If the Administering Agency makes any of the findings in sec. 18-28, it may revoke a Nonmetallic Mining Reclamation Permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter to the Administering Agency. The Administering Agency shall use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

Sec. 18-29. Annual Operators Reporting.

(a) Contents and Deadline. Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

(1) CONTENTS. The annual report required by this section shall include all of the following:

(a) The name and mailing address of the operator.

(b) The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.

(c) The identification number of the applicable nonmetallic mining permit, if assigned by Calumet County or the local unit of government. If no number exists, the Administering Agency will supply one at the time of submittal.

(d) The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.

- (e) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
- (f) A plan, map or diagram accurately showing the acreage described in pars. (d) and (e).
- (g) The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining Reclamation Permit and Chapter NR 135, Wisconsin Administrative Code."

- (h) Any other information deemed necessary by Calumet County or its Administering Agency to adequately assess the current site conditions of the nonmetallic mining site.

(2) The annual report shall cover activities on un-reclaimed acreage for the previous calendar year and be submitted by January 31.

(3) WHEN REPORTING MAY END. Annual reports shall be submitted by an operator for all active and intermittent mining sites to the Administering Agency for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to sec. 18-33 or at the time of release of financial assurance pursuant to sec. 18-18.

(b) Inspection in Lieu of Report. The Administering Agency may, at its discretion, obtain the information required in sec. 18-29 for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If the Administering Agency obtains and documents the required information, the annual report need not be submitted by the operator. If the Administering Agency determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the Administering Agency shall require the operator to submit the certification required in sec. 18-29.

(c) Retention of Annual Reports. Annual reports submitted under sec. 18-29 or inspection records that replace them under sec. 18-29 shall be retained by the Administering Agency at 132 Main Street, Menasha, Wisconsin, for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

Sec. 18-30. Plan Review Fees.

(a) Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sec. 18-16 shall submit a non-refundable plan review fee as listed in Schedule A of this ordinance to the Administering Agency at the address below:

Calumet County Land & Water Conservation Department
c/o: NR-135 Coordinator
206 Court St., Chilton, WI 53014

No plan review fee may be assessed under this section for any local transportation-related mining receiving an automatic permit under sec. 18-20. A separate plan review fee shall be paid under this section for any modification to an existing Reclamation Plan submitted pursuant to sec. 18-27.

(b) Expedited Plan Review Fee. A person who intends to operate a nonmetallic mining site for which an expedited permit application has been submitted under sec. 18-20 may obtain expedited Reclamation Plan review by paying a fee as indicated in Schedule A of this ordinance.

(c) Relation to Annual Fee. Any Reclamation Plan review fee or expedited Reclamation Plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sec. 18-31.

Sec. 18-31. Annual Fees.

(a) Areas Subject to Fees, Procedures Deadline and Amount. Operators of all nonmetallic mining sites subject to Reclamation Permits issued under this chapter shall pay annual fees as listed in Schedule A of this ordinance to the Administering Agency at the address below:

Calumet County Land & Water Conservation
c/o: NR-135 Coordinator
206 Court St., Chilton, WI 53014

(1) Fees paid under this section shall be calculated based on the un-reclaimed acres of a nonmetallic mining site, as defined below:

(a) "Un-reclaimed acre" or "un-reclaimed acres" means those un-reclaimed areas in which nonmetallic mining has occurred after August 1st, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sec. 18-18. However the term does not include any areas described in par. (b).

(b) "Un-reclaimed acre" or "un-reclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under sec. 18-18(7).
2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1st, 2001.
3. Those portions of nonmetallic mining sites which are included in an approved Nonmetallic Mining Reclamation Plan but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1st, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

5. Those areas within a nonmetallic mining site which the Administering Agency has determined to have been successfully reclaimed on an interim basis in accordance with sec. 18-33.

6. Those areas defined as not included in a nonmetallic mining site under sec. 18-14.

(2) Fees assessed pursuant to this section shall be based on un-reclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under sec. 18-33. Fees shall be paid no later than January 31 for the previous year.

(3) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the Administering Agency pending certification of completed reclamation pursuant to secs. 18-18 and 18-33. Upon such certification the Administering Agency shall refund that portion of the annual fee that applies to the reclaimed areas. If the Administering Agency fails to make a determination under secs. 18-18 and 18-33 within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(b) Wisconsin Department of Natural Resources Share of Fee.

(1) Fees paid under this section shall, except where provided in sub. (2), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Schedule A.

(2) Calumet County or its Administering Agency shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

(c) Administering Agency's Share of Fee. Fees paid under this section shall also include an annual fee, based on un-reclaimed acreage, due to the Administering Agency and are illustrated in Schedule A but shall not exceed those fees listed in NR-135, Wisconsin Administrative Code for such sites

(d) Documentation of Administering Agency's Share of Fee. The County, or its Administering Agency, shall document in writing its estimated program costs and the need for fee established in sec. 18-31 on or before the effective date of this ordinance. This documentation shall be available for public inspection at:

Calumet County Land & Water Conservation
c/o: NR-135 Coordinator
206 Court St., Chilton, WI 53014

Sec. 18-32. Regulatory Reporting and Documentation.

(a) Reporting. The Administering Agency shall send an annual report to the Wisconsin Department of Natural Resources by March 31st for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program within Calumet County:

(1) The total number of nonmetallic mining Reclamation Permits in effect.

- (2) The number of new permits issued within the jurisdiction of Calumet County.
- (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
- (4) The number of acres being mined or unreclaimed acres.
- (5) The number of acres that have been reclaimed and have had financial assurance released pursuant to sec. 18-18.
- (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to sec. 18-33.
- (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.

(b) Documentation. The Administering Agency shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Calumet County's reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code:

- (1) Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this chapter.
- (2) The procedures employed by the Administering Agency regarding Reclamation Plan review, and the issuance and modification of permits.
- (3) The methods for review of annual reports received from operators.
- (4) The method and effectiveness of fee collection.
- (5) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.
- (6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (7) Responses to citizen complaints.
- (8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- (9) The maintenance and availability of records.
- (10) The number and type of approvals for alternative requirements issued pursuant to sec. 18-22.

(11) The method of determining the success of reclamation in meeting the criteria contained in the Reclamation Plan and subsequently releasing the financial assurance pursuant to sec. 18-18.

(12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Calumet County or its Administering Agency to implement its nonmetallic mining reclamation program under this chapter.

(13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.

(14) Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative Code.

Sec. 18-33. Completed Reclamation - Reporting, Certification and Effect.

(a) Reporting. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a Reclamation Plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.

(1) The operator shall submit a written request along with the fee as specified in Schedule A, for certification of a portion or all of the nonmetallic mining site. This request shall be filed with the Administering Agency at the address below:

Calumet County Land & Water Conservation Department
c/o: NR-135 Coordinator
206 Court St., Chilton, WI 53014

(2) The Administering Agency shall notify the operator of the scheduled date of inspection within one week of the submittal of the request.

(b) Reporting of Interim Reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the Reclamation Plan for the site prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sec. 18-33.

(c) Certification of Completed Reclamation. The Administering Agency shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with sec. 18-18.(7)(c). If it is determined that interim or final reclamation is complete, including re-vegetation as specified in a Reclamation Plan that conforms with sec. 18-17, the Administering Agency shall issue the mine operator a written certificate of completion.

(d) Effect of Completed Reclamation. If reclamation is certified by the Administering Agency as complete under sec. 18-33 for part or all of a nonmetallic mining site, then:

(1) No fee shall be assessed under sec. 18-31 for the area so certified.

(2) The financial assurance required by sec. 18-17 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

(e) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by sec. 18-33 for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the Administering Agency for it under sec. 18-31 shall be refunded.

Sec. 18-34. Permit Termination.

When all final reclamation required by a Reclamation Plan conforming to sec. 18-17 and required by this chapter is certified as complete pursuant to secs. 18-18 and 18-33, the Administering Agency shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the Reclamation Permit.

Sec. 18-35. Right of Entry and Inspection.

For the purpose of ascertaining compliance with the provisions of Subchapter I of § 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of Calumet County or its authorized Administering Agency may inspect any nonmetallic mining site subject to this chapter as provided below:

- (a) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of Calumet County or its authorized Administering Agency or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining Reclamation Permit, this chapter, Chapter NR 135, Wisconsin Administrative Code or Subchapter I of §295, Stats.
- (b) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

Sec. 18-36. Orders and Citations.

(a) Enforcement Orders. Calumet County, upon recommendation by the Administering Agency, may issue orders as set forth in §295.19(1)(a), Stats., to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a Reclamation Plan required by sec. 18-17 and a permit issued under this ordinance. A violation of this ordinance, an order or permit issued pursuant to this ordinance or a Reclamation Plan required by sec. 18-17 and a permit issued under this ordinance shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

(b) Special Orders. Calumet County, upon recommendation by the Administering Agency, may issue a special order as set forth in §§295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining Reclamation Permit pursuant to sec. 18-28, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

(c) Review of Orders. A person holding a Reclamation Permit who is subject to an order pursuant this section shall have the right to review the order in a contested case hearing under

§68.11, Stats., notwithstanding the provisions of §§68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.

(d) Citations. Calumet County, upon recommendation by the Administering Agency, may issue a citation under §66.0113, Stats., or summons and complaint to collect forfeitures to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a Reclamation Plan required by sec. 18-17 and a permit issued under this ordinance. The issuance of a citation or complaint under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation or complaint under this subsection.

(e) Enforcement. Calumet County, upon recommendation by the Administering Agency, may submit any order issued under sec. 18-36 to abate violations of this chapter to a district attorney, Corporation Counsel, municipal attorney or the Attorney General for enforcement. The District Attorney, Corporation Counsel, municipal attorney or the Attorney General may enforce those orders through appropriate Court action.

Sec. 18-37. Penalties.

Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this ordinance, a permit issued pursuant to this ordinance or a Reclamation Plan required by sec. 18-17 and a permit issued under this ordinance may result in forfeitures as provided in §295.19(3), Wisconsin Statutes, as follows:

(a) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under sec. 18-36 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under sec. 18-36 is suspended, stayed or enjoined, this penalty does not accrue.

(b) Except for the violations referred to in sub. (1), any person who violates subchapter I of §295, Stats., Chapter NR 135, Wisconsin Administrative Code, any Reclamation Plan approved pursuant to this ordinance or an order issued pursuant to sec. 18-36 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under sec. 18-36 is suspended, stayed or enjoined, this penalty does not accrue.

Sec. 18-38. Ordinance Conflicts.

Where existing County ordinances conflict with these provisions, the provisions of this ordinance shall be controlling.

.SCHEDULE "A"
CALUMET COUNTY NON-METALLIC MINING RECLAMATION
ORDINANCE FEES

Description	Fee
Annual Fee (per un-reclaimed acre)*	\$22.00
WDNR Annual Fee for Sites on which no Nonmetallic Mining has Taken Place During the Calendar Year	\$15.00
WDNR Annual Fee (per NR-135 Admin. Code) (per un-reclaimed acre)	
1 to 5 Acres	\$35.00
6 to 10 Acres	\$70.00
11 to 15 Acres	\$105.00
16 to 25 Acres	\$140.00
26 to 50 Acres	\$160.00
51 + Acres	\$175.00
New Mine Permits	\$705.00
Alternative Requirement Review Fee	\$370.00
Annual Fee for Transportation Related Sites	
1 to 5 acres	\$175.00
6 to 10 acres	\$350.00
11 to 15 acres	\$525.00
16 to 25 acres	\$700.00
26 to 50 acres	\$810.00
51 acres or larger	\$870.00
Expedited Review for any Transportation Related Site	Double the Annual Fee
Permit Transfer Fee	\$105.00
Permit Modification Fee	\$400.00
Final Reclamation Completion/Inspection Fee	\$220.00
Interim Reclamation Inspection Fee	None

NOTE: The Calumet County Land and Water Conservation Committee may, from time to time, modify this fee schedule based upon justified program administration costs. Such modifications will not require that a public hearing be held; however, proposed changes will be public noticed prior to Committee action.

(Ordinance 2007-07, June 19, 2007)

Sec. 18-39. Reserved.

**ARTICLE III.
ILLICIT DISCHARGE AND CONNECTION.**

Sec. 18-40 Illicit Discharge and Connection Ordinance.

(a) Purpose. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Calumet County through the regulation of non-stormwater discharges to the Calumet County Municipal Separate Storm Sewer System (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(b) Applicability. This ordinance shall apply to all water entering the MS4 generated on any lands unless explicitly exempted as provided herein or by the Land & Water Conservation Department.

(c) Effective Date. This ordinance shall be in force and effect April 1, 2009.

Sec. 18-41. Specific Words and Phrases.

Best Management Practices (BMPs). Structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

Contaminated Stormwater. Stormwater that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in Wisconsin Administrative Code NR 216 (effective August 1, 2004).

Department (DNR). The Wisconsin Department of Natural Resources.

Discharge. As defined in Chapter 283, Wis. Stats., when used without qualification includes a discharge of any pollutant.

Discharge of Pollutant or Discharge of Pollutants. As defined in Chapter 283, Wis. Stats., any addition of any pollutant to the waters of this State from any point source.

Illicit Discharge. Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car

washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

Illicit Connections. An illicit connection is defined as either of the following:

- (a) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Land & Water Conservation Department,
- (b) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the Land & Water Conservation Department.

Industrial Activity. Activities subject to WPDES Industrial Permits per Wisconsin Administrative Code NR 216 (effective August 1, 2004) and Chapter 283, Wis. Stats.

Municipality. Any city, town, village, County, County utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, stormwater or other wastes.

Municipal Separate Storm Sewer System. As defined in Wisconsin Administrative Code NR 216, a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

- (a) Owned or operated by a municipality.
- (b) Designed or used for collecting or conveying stormwater.
- (c) Which is not a combined sewer conveying both sanitary and stormwater.
- (d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

Owner. Any person holding fee title, an easement or other interest in property.

Outfall. The point at which stormwater is discharged to waters of the state or to a storm sewer.

Person. An individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

Pollutant. As defined in Chapter 283, Wis. Stats., any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological

materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution. As defined in Chapter 283, Wis. Stats., any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pollution Prevention. Taking measures to eliminate or reduce pollution.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Land & Water Conservation Department. Calumet County Land & Water Conservation Department or its designee.

Stormwater. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

Stormwater Management Plan/ Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse. A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Calumet County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

Waters of the State. As defined in Chapter 283, Wis. Stats., those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Wisconsin Pollutant Discharge Elimination System (WPDES) Stormwater Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Chapter 283, Wis. Stats..

Sec. 18-42. Code Administration.

Calumet County hereby designates the Calumet County Land & Water Conservation Department or its designee to administer and enforce the provisions of this ordinance.

Sec. 18-43. Compatibility with Other Regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Sec. 18-44. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Sec. 18-45. Discharges - Prohibited, Allowed.

(a) Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged into the MS4, any materials, including but not limited to pollutants or waters containing any pollutants, other than stormwater.

(b) Allowed Discharges.

(1) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges, and street wash water.

(2) Discharges or flow from firefighting, and other discharges authorized in writing by the Land & Water Conservation Department as being necessary to protect public health and safety.

(3) Discharges associated with dye testing, however this activity requires a verbal notification to the Land & Water Conservation Department and the Department of Natural Resources a minimum of one day prior to the time of the test.

(4) Any non-stormwater discharge permitted under a WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources. Any person subject to such a WPDES stormwater discharge permit shall comply with all provisions of such permit.

Sec. 18-46. Prohibition of Illicit Connections.

(a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this ordinance if the person connects a line

conveying sewage to the MS4, or allows such a connection to continue.

(d) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Land & Water Conservation Department.

(e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Land & Water Conservation Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Land & Water Conservation Department.

Sec. 18-47. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the State shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, that is the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4 or watercourses. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.

Sec. 18-48. Notification of Spills.

(a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

(b) Failure to provide notification of a release as provided above is a violation of this ordinance.

Sec. 18-49. Compliance Monitoring

Right of Entry: Inspecting and Sampling. The Land & Water Conservation Department shall be permitted to enter and inspect facilities that have stormwater discharges associated with

industrial activity, including construction activity, subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Land & Water Conservation Department.

(2) Facility operators shall allow the Land & Water Conservation Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

(3) The Land & Water Conservation Department shall have the right to set up on any facility such devices as are necessary in the opinion of the Land & Water Conservation Department to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Land & Water Conservation Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Land & Water Conservation Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Land & Water Conservation Department access to a facility is a violation. A person who is the operator of a facility commits an offense if the person denies the Land & Water Conservation Department reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.

Sec. 18-50. Violations.

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the Land & Water Conservation Department is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The Land & Water Conservation Department is authorized to seek costs of the abatement as outlined in Section 18-50(h).

(c) Warning Notice. When the Land & Water Conservation Department finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Land & Water Conservation Department may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning

Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Land & Water Conservation Department to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

(d) Notice of Violation and Enforcement.

(1) Whenever the Land & Water Conservation Department finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Land & Water Conservation Department may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:

- A. The name and address of the alleged violator, if known;
- B. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- C. A statement specifying the nature of the violation;
- D. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- F. A statement that the determination of violation may be appealed to the Land and Water Conservation Committee by filing a written Notice of appeal within 15 days of service of Notice of Violation; and
- G. A statement specifying that, should the violator and/or property owner fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator and/or property owner.

(2) Such notice may require without limitation:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of illicit connections or discharges;
- C. That violating discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- E. Payment of a fine or fees to cover administrative and remediation costs; and
- F. The implementation of BMPs.

(e) Suspension and Termination of MS4 Access.

(1) Emergency Cease and Desist Orders.

A. When the Land & Water Conservation Department finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the State which reasonably appears to present an imminent and substantial endangerment to the health or welfare of persons or to the environment, the Land & Water Conservation Department may issue a Cease and Desist Order to the violator and/or property owner and direct the violator and/or property owner to:

1. Immediately comply with all ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

B. Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate any endangering discharge. In the event of a discharger's failure to immediately comply with the emergency order, the Land & Water Conservation Department may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Land & Water Conservation Department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Land & Water Conservation Department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Land & Water Conservation Department within 15 days of receipt of the emergency order.

(2) Suspension due to Illicit Discharges in Emergency Situations. The Land & Water Conservation Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Land & Water Conservation Department may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, and/or to minimize danger to persons.

(3) Termination due to the Detection of Illicit Discharge.

A. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Land & Water Conservation Department will notify a violator of the proposed termination of its MS4 access. The violator may appeal the termination to the Planning, Zoning, Land and Water Conservation Committee.

B. A person commits an offense if the person reinstates MS4 access to premises

terminated pursuant to this Section, without the prior approval of the Land & Water Conservation Department.

(f) Enforcement Measures. If a violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal where the Land and Water Conservation Committee upheld the decision of the Land & Water Conservation Department, then representatives of the Land & Water Conservation Department are authorized to enter upon the subject property and to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Land & Water Conservation Department or designated contractor to enter upon the premises for the purposes set forth above.

(g) Special Inspection Warrant: If the Land & Water Conservation Department has been refused access to any part of the premises from which stormwater is discharged and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Land & Water Conservation Department may seek issuance of a special inspection warrant per §66.0119, Wis. Stats.

(h) Cost of Abatement of the Violation. Within 90 days after abatement of the violation, the violator and/or owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the due date, the charges shall become a special charge against the property.

(i) Violations Deemed a Public Nuisance. Any condition in violation of any of the provisions of this ordinance is declared and deemed a nuisance and may be summarily abated or restored at the violator's and/or property owner's expense.

Sec. 18-51. Prosecution and Penalties.

Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the Land & Water Conservation Department, the Land & Water Conservation Department may impose a penalty for each day the violation remains un-remedied after receipt of the notice of violation.

Sec. 18-52. Appeal.

Any person receiving a Notice of Violation may appeal the determination of the Land & Water Conservation Department to the Land and Water Conservation Committee. The Notice of Appeal must be received by the Land & Water Conservation Department within 15 days from the date of the Notice of Violation. Hearing on the appeal shall take place within 30 days from the date of receipt of the Notice of Appeal.

Sec. 18-53. Remedies Not Exclusive.

(a) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Land & Water

Conservation Department to seek cumulative remedies.

(b) The Land & Water Conservation Department may recover all attorney fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Sec. 18-54.—18-59. Reserved.

(Ordinance 2008-07, 11-3-08)

**ARTICLE IV.
MANURE STORAGE AND RUNOFF MANAGEMENT.
DIVISION 1. IN GENERAL**

Sec. 18-101. Authority.

This ordinance is adopted under authority granted by Sections 59.70(1), 92.15, 92.16, and 281.16 of the Wisconsin Statutes; Sections ATCP 50 and NR 151 of the Wisconsin Administrative Code.

Sec. 18-102. Applicability.

This ordinance applies in all unincorporated areas of Calumet County.

Sec. 18-103. Severability Clause.

If any section, provision, or portion of this ordinance is ruled invalid, the remainder shall not for that reason be rendered ineffective.

Sec. 18-104. Purpose and Findings.

The purpose of this ordinance is to provide for proper and safe storage, handling, and land application of manure, and to reduce the delivery of manure, other waste materials, and fertilizers to surface waters and groundwater through the use of conservation practices and implementation of state performance standards and prohibitions for agriculture.

The Calumet County Board of Supervisors finds that polluted surface runoff and leachate from improperly designed or maintained manure storage facilities, feed storage facilities, unconfined manure piles, animal lots, and milking centers, and land applications of manure and fertilizers have resulted in the delivery of manure, other waste materials, and nutrients to surface waters and groundwater within the County. The Board finds that the delivery of these pollutants to surface and groundwater are contributing significantly to ongoing water quality problems and that these pollutants can cause actual or potential harm to the health and safety of County residents and visitors and to livestock, aquatic life, plants, and animals, as well as damaging the tax base of Calumet County. The Board finds that adherence to agricultural performance standards in Wisconsin Administrative Codes NR151 and ATCP 50 by Calumet County Landowners is necessary to reduce these risks.

Sec. 18-105. Definitions.

Agricultural Purposes – beekeeping; commercial feedlots; dairying; egg production;

floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint or seed crops; rising of fruits, nuts or berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; or vegetable raising.

Agricultural Engineering Practitioner – a practitioner who is properly qualified under Wisconsin Administrative Code ATCP 50.46.

Bedrock – the top of the shallowest layer of a soil profile that consists of consolidated rock material or weathered-in-place material, more than 50% of the volume of which will be retained on a 2 mm soil sieve.

Conservation Practices – facilities or practices that are designed to prevent or substantially reduce soil erosion, prevent or substantially reduce surface and ground water pollution, or substantially achieve or maintain compliance with state or local performance standards. “Conservation practices” include a nutrient management plan.

Karst Feature – an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

Land and Water Conservation Committee - the Land and Water Conservation Committee.

Landowner – any of the following:

- (a) A person who holds a fee title or an easement to a parcel of land that is used for agricultural purposes.
- (b) A person who rents, leases, controls, or uses a parcel of land for agricultural purposes.

Livestock – Means animals that are kept for human use or raised for sale or profit, including, but not limited to bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer and elk, farm-raised game birds, camelids, ratites, and farm-raised fish.

Manure – animal excreta and other materials, such as bedding, rain, waste water, soil, hair, feathers, and other debris and organic waste included in animal waste handling operations. It also means the undigested food in a slaughtered animal’s stomach, known as paunch manure.

Manure Storage Facility – an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure or platform to contain manure and other animal or agricultural wastes. A storage facility or storage place for manure and waste solids, liquids, or byproducts from a waste treatment facility is also considered to be a Manure Storage Facility.

Manure Transfer System – components, such as pumps, pipes, conduits, valves, collection basins, and other structures used to convey manure and milking center wastes from buildings and animal lots to a Manure Storage Facility, loading area, or treatment area; and facilities, such as reception tanks and pits to temporarily catch and store the manure and milking center wastes before conveyance. A component used to convey waste solids, liquids, or byproducts to or from a waste treatment facility is also considered to be a Manure Transfer System. Gutters, barn cleaners, and manure spreaders are not considered to be a Manure Transfer System.

NRCS – the United States Department of Agriculture Natural Resources Conservation Service.

Nutrient Management Plan – any of the following: (a) a plan required under Wisconsin Administrative Code ATCP 50.04(3) or 50.62(5)(f). or (b) a farm nutrient plan prepared or approved, for a landowner, by a nutrient management planner who meets the qualifications of ATCP 50.48.

Pasture – land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes, and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

Person – an individual, corporation, partnership, cooperative, limited liability company, trust, or other legal entity.

Phosphorus Index – Wisconsin’s agricultural land management planning tool for assessing the potential of a cropped or grazed field to contribute phosphorus to the surface water.

Professional Engineer – an agricultural or civil engineer that is registered with the State of Wisconsin.

Reference Guide – the Calumet County Manure Storage and Runoff Management Ordinance Reference Guide, adopted as a companion document to this ordinance and which contains technical standards, plan and design requirements, and other requirements and guidance for compliance with this ordinance.

Land & Water Conservation - the Land & Water Conservation Department.

Sinkhole - a depression or opening on the land surface, usually bowl or funnel-shaped, and generally formed by dissolution and collapse of limestone or dolomite bedrock at or just underneath the land surface. Sinkholes may be partially or completely filled with earth and debris. Fractures in bedrock beneath sinkholes often extend to the groundwater table.

Site that is Susceptible to Groundwater Contamination

- (a) An area within 250 feet of a private well.
- (b) An area within 1000 feet of a municipal well.
- (c) An area within 300 feet upslope or 100 feet downslope of karst features.
- (d) A channel with a cross-sectional area equal to or greater than 3 square feet that flows to a karst feature.
- (e) An area where the soil depth to groundwater or bedrock is less than 2 feet.
- (f) An area where the soil does not exhibit one of the following soil characteristics:
 - 1. At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
 - 2. At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
 - 3. At least a 5-foot soil layer with 10% fines, or greater above groundwater and bedrock.

Substantially Alter– a change initiated by an owner or operator of a Manure Storage Facility, Manure Transfer System, or Waste Treatment Facility that results in a relocation of the facility or system or significantly changes to its size, depth, or configuration including but not limited to:

- (a) Replacement of a liner in a Manure Storage Facility.

- (b) An increase in volumetric capacity or area by more than 20%.
- (c) A change related to a change in livestock management from one species to another species.

Technical Standard – a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Waste Treatment Facility – a facility or mechanism designed to mechanically, chemically, or biologically separate or treat manure and other waste materials, such as a solid/liquid waste separation system, a composting system, a digester, or an incinerator.

Waters of the State – those portions of Lake Michigan and lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

Water Quality Management Area – the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

Winter Grazing Area – cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period of October 1 to April 30.

DIVISION 2. RUNOFF MANAGEMENT

Sec. 18-106. State of Wisconsin Performance Standards and Prohibitions.

(a) All Landowners shall implement conservation practices that achieve compliance with performance standards and prohibitions in Wisconsin Administrative Code NR 151.02 through NR 151.08 as amended. The conservation practices shall comply with Wisconsin Administrative Code ATCP50.04 and ATCP 50.06, as amended.

DIVISION 3. MANURE STORAGE

Sec. 18-107. Permit Required.

(a) A Landowner shall not construct, install, design, reconstruct, enlarge, or substantially alter a Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System, or employ a person to do the same, without first obtaining a construction and use permit from the Land & Water Conservation Department.

(1) Emergency repairs, such as repairing broken pipes, pumps, manure transfer equipment, leaking dikes, or removal of stoppages may be performed without a construction and use permit. If the repairs will substantially alter the design or construction of the facility or transfer system, the Land & Water Conservation Department shall be notified within 1 business day of the repair.

(2) The Land & Water Conservation Department shall determine, within 1 business day of notification, whether a permit will be required for any additional repairs or alterations to the facility or system.

(b) A Landowner shall not abandon, deconstruct, close, or fill in an existing Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System, or employ a person to do the same without first obtaining a closure permit from the Land & Water Conservation Department.

(c) A Landowner shall not convert an existing Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System to a use other than the use it was designed for, or employ a person to do the same, without first obtaining a converted use permit from the Land & Water Conservation Department. The use to which it is converted to must be approved by the Land & Water Conservation Department and shall not negatively impact soil, surface water, or groundwater resources.

Sec. 18-108. Permit Applications.

(a) **Construction and Use.** Each application for a construction and use permit shall, at a minimum, include:

(1) Fully completed application forms, as required and provided by the Land & Water Conservation Department, and permit application fees.

(2) The following documentation, containing all required components of and meeting all pertinent criteria listed in NRCS Technical Standard 313 Waste Storage Facility, NRCS Technical Standard 634 Manure Transfer, NRCS Technical Standard 629 Waste Treatment, NRCS Technical Standard 632 Solid/Liquid Waste Separation Facility, NRCS Technical Standard 317 Composting Facility, other applicable NRCS technical standards, Wisconsin Administrative Code NR 151.05, and the Reference Guide. The components and criteria shall be incorporated into the design of the facility or system.

A. A management assessment.

B. A site assessment.

C. A location map or aerial photo.

D. An engineering design drawing of the facility and system and construction plans and specifications prepared and certified by an agricultural engineering practitioner or a professional engineer.

E. Soil test pit locations, soil descriptions, and soil test results.

F. An operation and maintenance plan.

G. A safety design and plan.

(3) A plan for diverting runoff water away from the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System if located within a Water Quality Management Area.

- (4) A nutrient management plan that conforms to the requirements of Section 18-116 of this ordinance.
- (5) A construction site erosion control plan and post-construction stormwater management plan that meets applicable County, State, and Federal regulations.
- (6) A timetable for construction.
- (7) Information requested by the Land & Water Conservation Department to assess and process the application.

(b) **Closure Permit.** Each application for a Closure Permit shall, at a minimum, include

- (1) Fully completed application forms, as required and provided by the Land & Water Conservation Department.
- (2) The following documentation, containing all required components of and meeting all criteria listed in NRCS Technical Standard 360 Closure of Waste Impoundments, other applicable NRCS Technical Standards, Wisconsin Administrative Code NR 151.05, and the Reference Guide. The components and criteria shall be incorporated into the closure of the facility or system.
 - A. A location map or aerial photo.
 - B. A closure plan, including a plan for removal and proper land application of accumulated manure and water from the facility according to a nutrient management plan that conforms to the requirements of Section 18-116 of this ordinance.
- (3) A Construction Site Erosion Control Plan and Post-Construction Stormwater Management Plan that meets applicable County, State, and Federal regulations.
- (4) A timetable for closure.
- (5) Information requested by the Land & Water Conservation Department to assess and process the application.

(c) **Converted Use Permit.** Each application for a Converted Use Permit shall, at a minimum, include:

- (1) Fully completed application forms, as required and provided by the Land & Water Conservation Department, and permit application fees.
- (2) A general location map drawing or aerial photo that includes:
 - A. The Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System to be converted.
 - B. The locations of buildings, roads, septic systems and holding tanks, lanes, property lines, utilities, setbacks, easements, or any other features which could impact safe conversion and use within 300 feet of the Manure Storage Facility, Waste

Treatment Facility, or Manure Transfer System. If the conversion involves digging, underground utilities shall be located through the use of Digger's Hotline.

C. The scale of the drawing and a north arrow.

(3) A description of the intended converted use.

(4) Documentation of an inspection carried out in compliance with Section 18-114 of this ordinance for Manure Storage Facilities, Waste Storage Facilities, or Manure Transfer Systems installed prior to June 20, 1989 or installed after that date without a permit from the Calumet County Land & Water Conservation Department.

(5) Proof that the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System will meet all requirements set forth in NRCS Technical Standards that are applicable to the intended use and that the intended use will not negatively impact soil, surface water, and groundwater resources.

(6) A plan for installation of adequate safety devices, as determined by the Land & Water Conservation Department.

(7) Information requested by the Land & Water Conservation Department to assess and process the application.

Sec. 18-109. Permit Application Fees.

(a) All Permit Application Fees shall be set yearly by the Land and Water Conservation Committee and approved in Resolution by the Calumet County Board of Supervisors. Permit applicants should contact the Land & Water Conservation Department for the most recent fee schedule.

(b) Fees may be waived under the following conditions:

(1) A separate construction and use permit application fee is waived for a Manure Transfer System or Waste Treatment Facility if the system or facility is built in conjunction with and at the same time as a Manure Storage Facility for which the permit fee was paid.

(2) The construction and use fee shall be waived if a permit application is solely for a Manure Transfer System and the transfer system does not include a reception tank that holds or stores 300 cubic feet or more of manure.

(c) No application fee shall be charged for a Closure Permit.

(d) All fees shall be doubled if any excavation, construction, or other activity that requires a permit under this ordinance occurs before a permit is issued, with the exception of a Closure Permit.

Sec. 18-110. Permit Review Period.

(a) Within 7 days of receiving a completed application and fee, the Land & Water Conservation Department shall make a determination and inform the applicant, in writing, on whether the application is complete and all necessary information submitted.

(1) If the application is incomplete or more information is needed, the Land & Water Conservation Department shall notify the applicant of what additional information is needed.

(b) Within 30 days of receiving the complete application and all necessary or requested information, the Land & Water Conservation Department shall approve or disapprove the permit application.

(1) The Land & Water Conservation Department may extend the time limit for approval or disapproval if additional information is needed because of Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System design modifications requested by the applicant or for other good cause specified in writing by the Land & Water Conservation Department.

Sec. 18-111. Permit Requirements.

(a) Notice shall be given to the Land & Water Conservation Department at least 5 business days prior to starting any construction activities authorized by a permit and within 5 business days of completion of all activities authorized by a permit.

(b) The permit holder shall allow on-site inspections by the Land & Water Conservation Department before, during, and after construction, closure, or conversion to ensure design specifications and plans are followed.

(c) With permission from the Land & Water Conservation Department, some or all inspections may be conducted by a private engineer. In such cases, a detailed inspection log that is completed, signed, and stamped by the private engineer shall be submitted to the Land & Water Conservation Department upon request of the Land & Water Conservation Department. When activities subject to the permit are completed, an as-built plan that is prepared, signed, and stamped by the private engineer shall be submitted to the Land & Water Conservation Department within 7 days of completion.

(d) Activities authorized by permit shall be completed within one year from the date of permit issuance, after which the permit shall become void. The Land & Water Conservation Department may grant an extension for permitted activities upon a showing of extenuating circumstances.

(e) Manure Storage Facility, Waste Treatment Facility, and Manure Transfer System design, siting, construction, management, and maintenance shall be carried out in accordance to NRCS Technical Standard 313 Waste Storage Facility, NRCS Technical Standard 634 Manure Transfer, NRCS Technical Standard 629 Waste Treatment, NRCS Technical Standard 632 Solid/Liquid Waste Separation Facility, NRCS Technical Standard 317 Composting Facility and other applicable NRCS technical standards.. They shall also be carried out in accordance with the location map, engineering design, operation and maintenance plan, and construction site erosion and stormwater management plan approved as part of the permit.

(f) Written approval from the Land & Water Conservation Department shall be obtained prior to making any modifications to an approved Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System design, plan, or location for construction, closure, or conversion.

(g) Land application of manure from permitted Manure Storage Facilities, Waste Treatment Facilities, and Manure Transfer Systems and as part of their closure shall be in accordance with an annually updated nutrient management plan that conforms to the requirements of Section 18-116 of this ordinance.

(h) Manure Storage Facility, Waste Treatment Facility, and Manure Transfer System closure shall be carried out in accordance with the Closure Plan and Construction Site Erosion and Stormwater Management Plan approved as part of the permit. A permit holder shall obtain written approval from the Land & Water Conservation Department prior to making any modifications to an approved closure plan.

(i) A construction permit holder or person employed to carry out permitted activities shall certify, in writing, to the Land & Water Conservation Department that the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System were built and installed according to the approved design and in the approved location before any manure or other waste material is placed in them.

(j) A closure permit holder or person employed to carry out permitted activities shall certify, in writing, to the Land & Water Conservation Department that the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System was closed according to the approved closure plan.

(k) All applicable components of the safety design requirements, including safety fencing, from NRCS Technical Standard 313 Waste Storage Facility, NRCS Technical Standard 634 Manure Transfer, NRCS Technical Standard 629 Waste Treatment, NRCS Technical Standard 632 Solid/Liquid Waste Separation Facility, NRCS Technical Standard 317 Composting Facility, other applicable NRCS technical standards shall be installed before any manure or other waste material is placed into the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System.

(l) All conservation practices to divert surface runoff, when required, shall be installed before any manure or other waste material is placed into the Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System.

Sec. 18-112. Permit Suspension or Revocation.

The Land & Water Conservation Department may revoke any permit issued under section 18-120 if the holder of the permit has misrepresented any material fact in the permit application or Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System design, or if the holder of the permit violates any of the conditions of the permit.

Sec. 18-113. Actions Required for Facilities and Systems That Are Abandoned or Pose Imminent Threats to Public Health, Aquatic Life, or Groundwater.

(a) A Landowner shall close an existing Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System that has been abandoned and meets the conditions prescribed by Wisconsin Administrative Code NR151.05(3).

(1) Closure shall occur in the manner prescribed in Wisconsin Administrative Code NR151.05(3)(a), NRCS Technical Standard 360 Closure of Waste Impoundments and other applicable NRCS Technical Standards.

(2) The Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System may be retained by demonstrating to the Land & Water Conservation Department that it meets the conditions prescribed by Wisconsin Administrative Code NR 151.05(3)(b).

(b) A Landowner shall upgrade, replace, or close an existing Manure Storage Facility, Waste Treatment Facility, or Manure Transfer System that was in existence as of October 1, 2002 and that poses an imminent threat to public health, fish and aquatic life, or groundwater.

(1) Upgrades and replacements shall occur in the manner prescribed in Wisconsin Administrative Code NR151.05(2) and applicable NRCS Technical Standards.

Sec. 18-114. Inspection of Non-Permitted Manure Storage Facilities, Waste Treatment Facilities, and Manure Transfer Systems.

(a) All Manure Storage Facilities, Waste Storage Facilities, and associated Manure Transfer Systems installed prior to June 20, 1989 or installed after that date without a permit from the Calumet County Land & Water Conservation Department shall be inspected by a professional engineer or an agricultural engineering practitioner to determine if they pose an imminent threat to public health, fish and aquatic life, or groundwater.

(1) The Land & Water Conservation Department may require soil borings as part of the inspection and the number, placement, and depth of the borings shall be determined by the Land & Water Conservation Department.

(2) The Land & Water Conservation Department may require additional inspections on an ongoing basis.

(3) An inspection fee, as established by the Land and Water Conservation Committee, shall be charged for inspections conducted by the Land & Water Conservation Department.

(4) If the inspection is conducted by a professional engineer, a written inspection report on findings shall be submitted to the Land & Water Conservation Department.

(5) If the inspection reveals that the Manure Storage Facility, Waste Storage Facility, or Manure Transfer System poses an imminent threat to public health, fish and aquatic life, or groundwater, the landowner shall comply with Section 18-113(b) of this ordinance.

DIVISION 4. STANDARDS AND ENFORCEMENT

Sec. 18-115. Standards for All Manure Storage Facilities and Transfer Systems (regardless of when built):

(a) Septage, municipal sludge, and industrial wastes shall not be added to Manure Storage Facilities, Waste Treatment Facilities, or Manure Transfer Systems or discharged or land applied from them unless permitted by applicable federal, state, and county regulations and NRCS Technical Standard 313. The Land & Water Conservation Department shall be notified by June 1st of each year of actual and planned additions and discharges and land applications of these substances.

(b) There shall be no overflow of Manure Storage Facilities, Waste Treatment Facilities, and Manure Transfer Systems.

(c) The levels of materials in a Manure Storage Facility shall not exceed a level that is vertically one foot below the lowest point of the top of the facility.

(d) There shall be no direct runoff from stored manure into waters of the State. Direct runoff has the meaning given in Wisconsin Administrative Code NR151.015.

Sec. 18-116. Standards for Nutrient Management Plans.

(a) Nutrient Management Plans shall meet the requirements of NRCS Technical Standard 590 Nutrient Management, Wisconsin Administrative Code ATCP 50.04 (3) and the phosphorus index performance standard of Wisconsin Administrative Code NR 151.04. The Plans shall include all land on which manure is mechanically applied and pastures and winter grazing areas.

(b) Nutrient Management Plans required by this ordinance and Wisconsin Administrative Code NR157.07 shall be updated annually. A copy of the updated portion of the Nutrient Management Plan, and a Plan Checklist as prescribed by Wisconsin Administrative Code ATCP 50 Appendix C, shall be submitted to the Land & Water Conservation Department by June 1st of each year.

(c) Nutrient Management Plans shall include nutrient applications from all sources including septage, municipal sludge, and industrial wastes.

(d) Documentation of actual manure, septage, municipal sludge, and industrial waste applications, on an individual field basis, shall be kept and submitted to the Land & Water Conservation Department upon request by June 1st of each year. The documentation shall include the dates of application and application amounts.

(e) Nutrient Management Plans shall be prepared and approved by a Nutrient Management Planner who meets the qualification requirements listed in ATCP 50.48.

(f) Nutrient Management Plans shall include a written winter spreading plan for planned and unplanned applications of manure to frozen or snow covered ground.

(g) Nutrient Management Plans shall include a written environmental incident response plan to address manure spills, ponding, runoff, and drainage to subsurface drains.

Sec. 18-117. Technical Standards and Reference Guide.

(a) The most current version of NRCS Technical Standards and Wisconsin Conservation Technical Notes shall be used to meet all requirements in this ordinance that refer to technical standards and notes. Future amendments to the NRCS Technical Standards and Wisconsin Conservation Technical Notes are incorporated into and made a part of this Ordinance, unless otherwise acted upon by the County Board of Supervisors.

(b) The Reference Guide, which is adopted as a companion guide to this ordinance, may be modified by the Land and Water Conservation Committee on a periodic basis. Such modifications will not require a public hearing, but will be publicly noticed prior to Land and Water Conservation Committee action.

(c) The current versions of the Electronic Field Office Technical Guide can be found on the NCRS website at <http://efotg.sc.egov.usda.gov/treemenuFS.aspx>

Sec. 18-118. Administrative Duties. The County designates the Land & Water Conservation Department and Land and Water Conservation Committee to administer and enforce this ordinance and who shall:

- (a) Keep accurate records of official actions conducted relative to the ordinance.
- (b) Review permit applications and issue permits in accordance with this ordinance.
- (c) Review designs of conservation practices and inspect construction and implementation of them to ensure that they are constructed and maintained according to technical standards and design specifications.
- (d) Inventory and ensure Landowner compliance with agricultural performance standards and prohibitions in Wisconsin Administrative Code NR 151.
- (e) Investigate complaints regarding compliance with this ordinance.
- (f) Perform other duties as specified in this ordinance.

Sec. 18-119. Inspection Authority.

The Land & Water Conservation Department is authorized to enter upon any lands affected under this ordinance for inspection purposes to determine compliance with it pursuant to the authority granted by Wisconsin State Statutes §92.07(14). If permission cannot be received from the permit applicant, permit holder, or Landowner, entry by the Land & Water Conservation Department shall be by §66.0119 of the Wisconsin Statutes.

(a) Refusal to grant permission to enter lands affected by the permit provisions of this ordinance shall be grounds for denial of or revocation of the permit.

Sec. 18-120. Enforcement.

(a) The cost share requirements, notification requirements, and compliance periods for landowners listed in Wisconsin Administrative Codes NR151.09, NR151.095, ATCP50.08, ATCP50.40, and ATCP50.54 shall be used when applicable in the enforcement of this ordinance.

(b) The Land & Water Conservation Department is authorized to revoke a permit for violations of this ordinance. The Land & Water Conservation Department may also post a Stop Work Order upon land which has had a permit revoked or on land where current activities violate activity violations of this ordinance.

(c) Notice shall be given by both posting of a notice upon the land where the violation is occurring and by mailing a copy of the order by certified mail to the person whose permit was revoked or whose activity is in violation of this ordinance. The notice shall contain an order to cease the activity or be brought into compliance with this ordinance.

(d) Any permit revocation or stop work order shall remain in effect until retracted by the Land & Water Conservation Department, or by the Land and Water Conservation Committee, or by a

Court of competent jurisdiction, or until the activity is brought into compliance with this ordinance.

(e) The Land & Water Conservation Department may issue a citation, pursuant to, and in accordance with, §66.0113 Wis. Stats and Section 1-7 of the Calumet County Code for a violation of this Chapter.

(f) The Land & Water Conservation Department may take actions for violations as provided by this ordinance, including but not limited to, issuance of a citation or seeking of injunctive relief. All remedies shall be cumulative.

Sec. 18-121. Appeal.

(a) Authority. Under authority of Wisconsin Statutes Chapter 68, the Land and Water Conservation Committee, created under Wisconsin Statute §59.70(19) and acting as an appeal authority under Wisconsin Statute §68.09(2) is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the Land & Water Conservation Department in administering this section.

(b) Procedure.

(1) Any appeal shall be made by written request mailed or delivered to the Calumet County Land & Water Conservation Department. The request shall state the grounds upon which it is contended that the order, requirement decision or determination should be modified or reversed and the grounds upon which an appeal is sought.

(2) The request shall be filed within 30 days of receiving the order, requirement, decision or determination.

(3) A hearing shall be scheduled by the Land & Water Conservation Department within 15 days of the filing of the appeal. A copy of the hearing notice shall be sent to the applicant.

(4) The hearing shall be conducted in accordance with Ch. 68, Wis. Stats.

(5) The final decision on an appeal shall be made within 20 days of completion of the hearing and shall be in writing, signed by the Chair or Secretary of the Land and Water Conservation Committee. The decision shall state the specific facts that are the basis for the decision of the Land and Water Conservation Committee and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, deny the appeal for lack of justification.

(6) If a final decision on an appeal is not made within 20 days, the appeal shall be deemed approved and the applicant may proceed with activities which were requested in the appeal.

(c) Who May Appeal. Appeals may be taken by any person having a substantial interest and is adversely affected by the order, requirement, decision, or determination made by the Land & Water Conservation Department.

(d) Fees for Appeals. A hearing fee, as established by the Land and Water Conservation Committee, shall be charged for hearings.

Sec. 18-122. Violation and Penalties.

(a) Any person who violates, or fails, neglects or refuses to comply with any of the provisions of this ordinance, shall upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 and costs of prosecution for each violation.

(b) Each day a violation exists or continues to exist shall constitute a separate offense.

(c) A violation includes, but is not limited to by reason of enumeration, failure to comply with any standard of this ordinance or a technical standard adopted by this ordinance, or with any condition or qualification attached to a permit, or any failure to comply with Notice of a Permit Revocation or Stop Work Order.

Sec. 18-123. Effective Date of Ordinance.

Ordinance becomes effective on May 18, 2011.

RESERVED

RESERVED

Chapters 27--29

RESERVED

Chapter 30

HEALTH AND SANITATION

Sec. 30-1. Title.

This chapter shall be titled the "Calumet County Human Health Hazard Ordinance."

Sec. 30-2. Authority; When Effective.

The Calumet County Board of Supervisors adopts this chapter pursuant to the authority granted in §59.02(2), Wis. Stats., in conjunction with Chapter 251 and 254, Wis. Stats. The effective date of this chapter shall be the day following adoption by the Calumet County Board of Supervisors.

Sec. 30-3. Purpose.

The purpose and intent of this chapter, in cooperation with local, state and federal agencies, is to protect the public health, safety and general welfare of the people of the County and:

- (a) Prevent the spread of communicable diseases.
- (b) Prevent the continuation of human health hazards.
- (c) Assure that citizens are protected from hazards, unhealthy or unsafe conditions.

Sec. 30-4. Powers of Health Officer.

This chapter shall be administered by the legally designated County Health Officer in cooperation with the Calumet County Health and Human Services Board and the appropriate state agencies. The Health Officer shall have the power to ensure compliance with the intent and purpose of this chapter by any appropriate means under the law.

Sec. 30-5. Interpretation.

The provisions of this chapter shall be liberally interpreted in favor of the public health of citizens of Calumet County and shall not be deemed a limitation of any power granted by the Wisconsin Statutes.

Sec. 30-6. Applicability.

The provisions of this chapter shall apply to all areas of Calumet County except cities, towns or villages within the County that have local health departments, pursuant to §251.08, Wis. Stats.

Sec. 30-7. Definitions.

- (a) As used in this chapter, the following terms shall have the meanings indicated:

Communicable Disease: Any disease that the Wisconsin Department of Health and Family Services determines, by rule, to be communicable in fact.

County: Calumet County, Wisconsin.

Health Officer: The Calumet County legally designated Health Officer from the Calumet County Health Division and his/her designee.

Human Health Hazard: Any situation or condition which adversely affects or has the potential to adversely affect the health of a person and/or the general public or both.

Immediate Human Health Hazard: A condition that exists or has the potential to exist which should be abated or corrected immediately to prevent imminent or ongoing danger of serious damage to human health or the environment.

Person: Any individual, corporation, society, institution, or other legal entity.

Pollution: The contamination or rendering unclean or impure the air, land or waters in the County or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

Public: Affecting or having the potential to affect the people, the environment, or both, outside the limits of an individual's personally occupied structure.

Solid Waste: Garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials from industrial, commercial and agricultural activities, but excluding solids or dissolved materials in wastewater effluent or other common water pollutants.

State: The State of Wisconsin.

Toxic and Hazardous Materials: Any chemical and/or biological materials that are or have the potential to create a human health hazard.

(b) All other words not specifically defined in this chapter shall be defined as set forth in any applicable State of Wisconsin Statutes or Administrative Codes, and if not defined otherwise, the standard dictionary definition of the word shall apply.

Sec. 30-8. Human Health Hazards.

(a) No person shall erect, create, cause, continue, maintain or permit any human health hazard within the County. Any person who shall cause, create, maintain, or permit a human health hazard or who shall, in any way, aid or contribute to the causing, creating or maintenance thereof, shall be guilty of a violation of this chapter and shall be liable for all costs and expenses, attendant upon the removal and correction of such health hazard.

(b) The following acts, omissions, places, conditions and things, excluding approved agricultural practices, are specifically declared to be human health hazards coming within the definition of "human health hazard" in Sec. 30-7, without limitation by enumeration:

(1) Food and breeding places for vermin, insects, etc. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting timber, bedding, packing materials, scrap metal, abandoned structures, animal and human fecal matter, or any other substance or condition which permits flies, mosquitoes, lice, disease-carrying insects, rats or other vermin or their reproduction, including areas in which such pests can live, nest or seek shelter.

(2) Water Pollution. The pollution of any well or cistern, stream, lake, canal, or other body of water by sewage, industrial wastes, fertilizers and toxic pesticides or other substances harmful to human beings.

(3) Noxious odors. Any negligent use of property, substance or device within the County which emits or causes any foul, offensive, noxious or disagreeable odor deemed repulsive to the physical senses of ordinary persons or to the public as a whole.

(4) Air pollution. The escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust or other atmosphere pollutants within the County that endanger human health or create noncompliance with applicable state and federal regulations.

(5) Animal waste. Accumulations of the bodily waste from all domestic animals and fowl that are handled, stored or disposed of in a manner that creates a health hazard to any person within the County.

(6) Wastewater. The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and or running into a surface water body, caused by a failed, damaged, malfunctioning, improperly constructed, or inadequately maintained private sanitary sewer waste disposal system or private sewer lateral connected to a public sewer system. Also, any wastewater or sewage effluent that is not handled or disposed of in compliance with applicable County and State Codes.

(7) Hazardous conditions. All open and unguarded pits, wells, excavations, tunnels, cisterns, foundations, mine shafts, or unoccupied basements freely accessible, which may have not been properly abandoned, sealed, barricaded, backfilled or posted, to prevent entry.

(8) Groundwater pollution. Addition of any chemical or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include, but are not limited to, the chemical and/or biological substances listed in Ch. NR 809, Wis. Adm. Code, titled "Safe Drinking Water" as amended from time to time.

(9) Unfit building or structure. All buildings or structures so old, dilapidated, neglected, or out of repair, as to be dangerous, unsafe, unsanitary or otherwise unfit for use or human habitation.

(10) Toxic and hazardous materials. Any chemical and/or biological material that is stored, used or disposed of in such quantity or manner that it is, or has the potential to create, a human health hazard.

(11) Unburied carcasses. The carcasses of any animals or fowl not intended for human consumption or food, which are not buried or otherwise properly disposed of, within a reasonable time period.

(12) Unhealthy or unsanitary conditions. Any condition or situation, which renders a structure or any part of a structure, unsanitary, unhealthy or unfit for human habitation, occupation, or use, or renders any property unsanitary or unhealthy.

(13) Garbage. Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed container, designed or reasonably adapted for such purposes.

(14) Other. Any other act or omission, situation or condition, defined by Wisconsin Statutes or Administrative Code to be a human health hazard, or which in fact meets the definition of "human health hazard" set forth in this chapter.

Sec. 30-9. Designation of Unfit Buildings of Structures.

(a) Any building or structure found to have any of the following defects is a human health hazard and shall be condemned as unfit for human habitation and shall be so designated and placarded by the Health Officer:

(1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested, that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupants or of the public.

(3) One, which because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

(4) One, which because of its condition, has been implicated as the source of a confirmed case of lead poisoning or asbestosis.

(b) No person shall continue to occupy, rent or lease quarters for human habitation, which are declared unfit for human habitation by the Health Officer.

(c) Any building or structure condemned as unfit for human habitation and so designated and placarded by the Health Officer, shall be vacated within a reasonable time, as specified by the Health Officer.

(d) No building or structure, which has been condemned and placarded as unfit for human habitation, shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Health Officer. The Health Officer shall remove such placard whenever the defect or defects, upon which the condemnation and placarding were based, have been eliminated.

(e) No person, except for the Health Officer, shall deface or remove the placard from any building or structure, which has been condemned as unfit for human habitation.

(f) Any person affected by any notice or order relating to the condemning or placarding of the building or structure as unfit for human habitation, may request and shall be granted a hearing in the matter before the Calumet County Health and Human Services Board.

(g) Whenever the Health Officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, or any rule or regulation adopted pursuant thereto, he/she shall give or cause to be given notice of such violation to the person or persons responsible therefore. Such notice shall be in writing, including a description of the real estate involved, a statement of violations and corrective actions required, and allow a reasonable time for the performance of any act required. Such notice shall be served upon the owner, operator or occupant, as the case may require, and may be served by certified mail or in the manner provided by Ch. 801, Wis. Stats., for service of summons.

Sec. 30-10. Communicable Disease Control.

(a) The Calumet County Health Officer shall enforce the provisions of Ch. 252, Wis. Stats., and Ch. DHS 145, Wis. Adm. Code, relating to control of communicable diseases.

(b) Reporting. The Calumet County Health Officer or designee shall report instances of communicable diseases to the Wisconsin Department of Health and Family Services within the time limits specified in Cha. DHS 145, Wis. Adm. Code.

(c) Access. It shall be unlawful for any person to refuse access to the Calumet County Health Officer or designee to any property, structure, or vehicle in the investigation or treatment of any communicable disease. If necessary, the Calumet County Health Officer may obtain a Special Inspection Warrant, issued under §66.0119, Wis. Stats., in order to carry out his/her duties.

(d) Enforcement. The enforcement and penalty provisions contained in §252.25, Wis. Stats., shall apply in the case of any person who fails to carry out an order by the County Health Officer, relating to the control of any communicable disease or in the case of any person who obstructs the County Health Officer in the performance of his/her duties.

Sec. 30-11. Administration and Enforcement.

(a) General provisions. This chapter shall be interpreted, administered and enforced by the Calumet County Health Officer or a designee of the Health Officer.

(b) It shall be the responsibility of the Health Officer to:

- (1) Ensure compliance with the purpose and intent of this chapter.
- (2) Maintain records of all official actions taken.
- (3) Enforce with local, County and state government officials, the provisions of this chapter.

(c) Powers. The Health Officer or his/her designee shall have the power necessary to enforce the provisions of this chapter, including the following, without limitation, by reason of enumeration:

(1) To enter any structure or premises at a reasonable time for the purpose of performing his/her duties and to secure a court order to accomplish this purpose, if deemed necessary.

(2) To order abatement and/or correction of any human health hazard in noncompliance with this chapter or state statute.

(3) To delegate the responsibilities of administration and enforcement of this chapter to another person qualified in the field of public health.

(4) To perform any other action authorized under the law or this chapter to ensure compliance with the purpose and intent of this chapter, and the requirements of this chapter.

(5) To issue citations for any violation of this chapter.

Sec. 30-12. Abatement Orders; Violations and Penalties.

(a) If the existence of a human health hazard is confirmed, a written cleanup and/or abatement order shall be issued specifying the action needed to correct the situation and shall include the following information:

(1) The name and address of the owner, operator and/or occupant and description of the real estate involved.

(2) The nature of the violation and the steps necessary to abate or correct it.

(3) The time period in which the violation must be corrected and/or abated, which will be one to five days for immediate health hazards or up to 30 days for health hazards, depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Health Officer.

(b) The order of abatement shall be served upon the person committing or maintaining the human health hazard by either certified mail or in the manner set forth for services of the summons in Ch. 801, Wis. Stats. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the human health hazard. Whenever an investigation hereunder involves a search of private premises and another owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that Officer shall apply to the Circuit Court of Calumet County for a Special Inspection Warrant, pursuant to §66.0119, Wis. Stats.

(c) Exceptions to written orders. In cases where a violation poses an immediate health hazard as determined by the Health Officer, or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under subsection (d) of this section, without issuance of a written abatement order.

(d) Noncompliance with Written Orders.

(1) If a person does not comply with a written order from the Health Officer or his/her designee, the violator may be subject to one or more of the following actions and/or penalties:

A. The issuance of a citation.

B. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the damage created by the violation.

C. Commencement of legal action against the person seeking a court-imposed forfeiture and/or the costs of abatement.

D. Any other action authorized by this chapter or by other applicable laws as deemed necessary by the Health Officer.

(2) The initiation of one action or penalty under this section does not exempt the violator from any additional actions and/or penalties prescribed by law.

(e) Abatement of Human Health Hazards. Where human health hazards as defined in this chapter or in the Wisconsin Statutes are encountered on private property, which require ordered abatement and/or correction, the Health Officer shall serve on the responsible person a written order as per subsections (a) and (b) of this section. If the human health hazard is not abated and/or corrected within the time period specified in the order, the Health Officer may enter upon the property and abate and/or correct the human health hazard or cause such action to be taken as set forth in §254.59, Wis. Stats. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or as a special tax assessment on the property.

(f) Penalties. In case of a conviction for a violation of the provisions of this chapter, judgment shall be entered against the violator by a forfeiture of not more than \$300 for the first violation offense and not more than \$500 for all subsequent offenses, together with applicable court costs and penalty assessments. The Court may also grant injunctive relief. Failure to comply with an order for abatement issued under this chapter in the time allowed, shall constitute a separate violation of this chapter, and each day of continued violation after the expiration of the time allowed shall constitute a separate offense.

(g) Initiation of Legal Action. In default of compliance with an order for abatement, legal action shall be initiated against a violator by issuance of a citation by the Health Officer or his/her designee or a referral to the Calumet County Corporation Counsel for the appropriate action. The Corporation Counsel is hereby delegated the duty of prosecuting violations of this chapter and enforcing this chapter. Where a human health hazard involves noncompliance with a state-enforced Administrative Code, the Health

Officer shall first refer the complaint to the appropriate agency for abatement and/or correction. If the human health hazard continues without adequate enforcement from the state agency to cause abatement and/or correction, then the Health Officer or his/her designee may initiate action under this section to bring about proper abatement and/or correction.

Sec. 30-13. Abrogation and Greater Restrictions.

This chapter is not intended to repeal, annul, abrogate, impair or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes great restrictions, the provisions of this chapter shall govern.

(Ord. 2014-06, 7-22-14)

RESERVED

Chapter 32

COUNTY TRUNK HIGHWAYS*

* Cross References: Administration, Ch. 2.

Sec. 32. County Trunk Highways

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ARTICLE I.

IN GENERAL

Sec. 32-1. Jurisdiction.

This Chapter is adopted under the authority of Chapter 59, 83 and 86 of Wisconsin Statutes, as amended from time to time.

Sec. 32-1.1. Contract with Local Government.

The County Administrator may, in accordance with any cost sharing policy developed by the Calumet County Highway Committee, enter into contracts with cities, villages and towns within the County borders to enable the County to construct and maintain streets and highways in such municipalities.

Sec. 32-2. Purpose.

The purpose of this Chapter is to provide for the safety of the motoring public, to review and approve new access points onto County Trunk Highways and changes in the use of existing access points, to promote the safe ingress and egress to County Trunk Highways in the interest of public safety, welfare and convenience, to protect the public investment in highways by preventing premature functional obsolescence, to reduce highway accidents caused by frequent and poorly designed points of access, to promote the balanced use of land for the mutual protection of the land owners, motorists and Calumet County and, to assure that utility installation meets certain engineering safety requirements.

Sec. 32-3. Penalties.

Any person violating any provision of this chapter shall forfeit not less than \$50.00 nor more than \$100.00 for each day that a violation exists. Each day that a violation exists shall constitute a separate offense.

Sec. 32-4. Definitions.

For the purpose of this Chapter, certain words or phrases used herein are defined as follows:

- A. Access: A point where a private driveway, road or town road connects to a County Trunk Highway.
- B. Agricultural Driveway: A point of access to highway for purposes of utilization of natural resources for the purpose of raising and selling basic food stuffs, but not including the extensive processing of raw goods. Agricultural farms under this definition shall produce annually on the farm a minimum of \$6,000.00 in gross sales of agricultural products. This shall also cover any real estate used for grazing.
- C. Commercial Driveway: A point of access to a highway for purposes of commerce, including dwellings designed for occupancy of more than two families.
- D. Calumet County Highway Commissioner: The Calumet County Highway Commissioner and designees (herein after referred to as the "Commissioner").
- E. Calumet County Board of Adjustments: The Board of five individuals appointed by the County Administrator for a two-year term expiring in April of even years.
- F. Driveway: A point of access to a highway.
- G. Highway: A County Trunk Highway as designated by Calumet County pursuant to Sec. 83.025, Statutes (synonymous with County Road).
- H. Local Road: A street or road, other than a County Trunk or Federal or State Highway, including private roads.
- I. Intersection: A place where two roads or a road and a highway intersect.

- J. Legal Conforming Lot: A lot which conforms with the dimensional and other requirements of the Zoning, Shoreland and Subdivision Ordinances of the County, villages or cities.
- K. Legal Nonconforming Lot: A lot, which was legal when created, but which would be prohibited under current requirements of the Zoning, Shoreland and Subdivision Ordinances of the county, villages or cities.
- L. Mile: A mile is measured to include ½ mile in either direction from each particular point of access under consideration.
- M. Other Driveway: Any other access to a county trunk, not otherwise specified. This would include infrequently used access points for utility purposes, emergency vehicles, land in the Conservation Reserve Program, woodlands, and hunting land.
- N. Recreational crossing: A point of access to a highway for recreational purposes, including but not limited to snow mobiles, bicycles, and the like.
- O. Residential driveway: A point of access to a highway for purposes of serving a building designed for or occupied exclusively for one to two families.
- P. Rural County Trunk Highway: Any county trunk highway with a 55 M.P.H. speed limit.
- Q. Semi-urban County Trunk Highway: Any county trunk highway, either inside or outside of the municipal boundaries of a city or village with a speed limit between 36 and 54 m.p.h.
- R. Temporary Access: A permit issued by the Commissioner for a period of one year or less.
- S. Urban County Trunk Highway: Any county trunk highway, either inside or outside of the municipal boundaries of a city, village or township with a speed limit of 35 M.P.H. or less.
- T. Utility: Any corporation, company, individual and association, including their lessees, trustees or receivers, or any sanitary district, cooperative association, town, village, or city that owns, operates, manages or controls any plant or fixed equipment within this state for the conveyance of communications, electric, power, light, heat, fuel, gas, oil, petroleum products, water, steam, fluids, sewage, drainage, irrigation, or similar facilities. This includes the owners or operators of cable television systems, cellular phone, and paging (wireless) systems, publicly owned fire or police signal systems, traffic and street lighting facilities, or privately owned facilities which perform any of the utility functions above. Highway facilities operated by the county shall not be bound by this chapter.

Sec. 32-5. Enforcement.

The Commissioner shall issue a citation in compliance with sec. 1-8 of the Code for any violation of this chapter. The Corporation Counsel shall prosecute all violations of this chapter upon the request of the Commissioner. In addition to an action to collect forfeiture, the Corporation Counsel is directed to seek an injunction in any case deemed appropriate to correct the violation, including the costs to correct the violation.

ARTICLE II.

ACCESS TO COUNTY TRUNKS

Sec. 32-6. Alteration of Abutting lands.

- A. It shall be unlawful and a violation of this chapter for any person, either directly or through the action of any tenant or other user of the lands, to alter the contours of the lands abutting controlled access highways in such a manner as to permit vehicular access from adjacent lands to a county highway without first obtaining all permits required by this ordinance.
- B. The Commissioner is authorized to issue an order, upon the determination that a violation of the provision of this chapter has occurred, requiring the landowner to remove any such alteration by

a date certain which shall in any event be at least 20 days from the date of delivery of the notice. Said delivery is to be by certified mail to the address of the landowner as found in the most recent tax listings for Calumet County.

- C. In the event that the alteration of the lands abutting a controlled access highway creates an immediate danger to the motoring public, the Commissioner shall correct the alteration as soon as possible. The Commissioner shall attempt to give prior notice of intent to correct the problem. In any case, the Commissioner shall give notice no later than 24 hours after the correction has occurred. The Commissioner may issue a citation as set forth in sec. 32-5, above.

Sec. 32-7. Appeal Process.

- A. Any order or decision issued pursuant to this chapter may be appealed to the Calumet County Highway Committee by filing a written notice of appeal within 30 days of the date of date of delivery of the order or the written decision of the Commissioner.
- B. The Notice of Appeal shall be filed with the Calumet County Highway Department, 241 E. Chestnut Street Chilton, WI 53014. A non-refundable fee of \$350.00 shall accompany the Notice of Appeal. The non-refundable fee shall be doubled if the appeal is a result of a denial of an application for any after-the-fact permit application. The Committee shall set a time and place for considering the appeal, and shall notify the appellant of the same. The appellant shall have the right to present evidence and witnesses on his behalf. When reviewing the order or decision of the Commissioner, the Committee shall consider the requirements of this chapter specifically paying attention to Sec. 32-2, above. The Committee shall issue findings either sustaining or overruling the order or decision.
- C. If the Committee sustains the order to remove the access point under 32-6, the appellant shall remove the alteration by the date set forth in the decision which shall in any event be at least 20 days from the date of the decision of the Committee.
- D. If the appellant refuses to comply with the order, the Commissioner shall issue a citation consistent with sec. 1.8 of this Code.
- E. Nothing in this section shall be interpreted to impair the right of the appellant to seek Certiorari review under §§68.13, Wis. Stats.

Sec. 32-8. Variance Process.

- A. Any person who has filed a permit for access under this chapter and was denied may request a Variance. The written request for a Variance shall be filed with the Calumet County Highway Committee, 241 E Chestnut Street, Chilton, WI 53014, within 30 days of the date of delivery of the written notification of denial. A non-refundable fee of \$350.00 shall be paid at the time of filing for a Variance. The non-refundable Variance fee shall be doubled if the denial is from an after-the-fact permit application.
- B. The Committee shall set a time and place for considering the Variance and shall notify the requestor of the same. The requestor shall have the right to present evidence and witnesses on his behalf.
- C. When reviewing the order or decision of the Commissioner, the Committee shall consider the requirements of this chapter specifically paying attention to Sec. 32-2, above.
- D. If the Committee finds that practical difficulty and unnecessary hardship may result from strict compliance with this Chapter, it may vary the regulation so that substantial justice may be done provided that the public interest is secured and that such Variance will not have the effect of nullifying the intent and purpose of this Chapter.

- E. In granting Variances, the Committee shall request evidence of practical difficulty and hardship and record the reasons in the minutes of which the Variance was granted or denied.
- F. Nothing in this section shall be interpreted to impair the right of the appellant to seek Certiorari review under §§68.13, Wis. Stats.

Sec. 32-9. Compliance with Ordinances/Official Maps.

Any person seeking access to land abutting a county trunk highway shall comply with:

- A. The ordinances and regulations of the County Zoning and Land Information Department.
- B. The official map of any municipality or governmental unit having jurisdiction.

Sec. 32-10. Temporary Access.

Except as specifically designated in this chapter, no private entrance upon or departure from a county highway shall be permitted by the Commissioner. The Commissioner may designate a private access point as temporary and subject to periodic review. In the interests of public health, safety and general welfare, the Commissioner may revoke a temporary access permit or he may require modifications to remedy a problem situation. A person so aggrieved may appeal that decision set forth in Sec. 32-7, above.

Sec. 32-11. Existing Points of Access.

All points of access that existed prior to March 20, 2001 may be continued. However, if the use of an established point of access is discontinued for a period of one year, the Commissioner may revoke the access privilege or require alterations or improvements to achieve compliance with this chapter.

Sec. 32-12. Change of Use.

Any point of access permitted under this chapter shall be subject to review and approval by the Commissioner if the Commissioner determines that there has been a change in the use of the access or a change in the primary use of the land which will affect the safe and efficient ingress and egress to, and use of, a county trunk highway. This determination shall be based primarily on a significant change in the volume of traffic or the type of vehicle using that point of access.

Sec. 32-13. Permit Requirements.

- A. Applications for Permits shall be obtained at the Calumet County Highway Department, 241 E Chestnut Street, Chilton, WI 53014.
- B. The Commissioner shall approve or deny the Permit within 30 days of receipt of the application and fee.
- C. An Access Permit shall expire 6 months from the date of issuance if evidence of use has not been established within that time. The application shall be extended for one additional six-month period upon the written request of the applicant.
- D. A non-refundable Application Permit Fee for the construction or reconstruction of an entrance or departure upon a Calumet County Trunk Highway shall be established by the Highway Committee. A schedule of the fees established shall be available for review in the Highway Department.

- E. If any person under this Chapter failed to obtain an access permit as required, the responsible party may attempt to correct the violation by applying for an “after-the-fact” access permit.

- 1. Procedure.

- (a) Upon notification of the violation, the responsible party may apply for a permit as provided in paragraph A. above.
- (b) Upon submittal of a complete application, the application shall be processed as provided by this Article.
- (c) The “after-the-fact” permit application shall not be deemed complete until a double permit application fee has been submitted. All fees are non-refundable.

Sec. 32-14. Right of Access for Parcels Existing Prior to Enactment.

- A. Each legal conforming lot is entitled to one access per lot.
- B. Non-legal conforming lots under common ownership, of the same use, shall be considered one lot for purposes of this chapter.

Sec. 32-15. Standards for Access.

- A. Whenever possible, accesses shall be granted on local roads instead of County Trunk Highways when there is a choice between the two types of roads.
- B. All newly created lots shall have an access shown on the recorded Certified Survey Map or by Plat as set forth in Chapter 62, Land Division.
- C. Consistent with Chapter 62, Land Division, the developer shall consult early and informally with the Commissioner for advice regarding the general requirements of this Chapter as it relates to both Certified Survey Maps and Plats.
- D. The developer shall provide the Commissioner with a drawing of the proposed parcel to be developed on a topographic survey map identifying proposed roads. The Commissioner may require other information including limited scale drawings, existing accesses, engineering data, traffic generation, property lines, topography, streams, lakes, ponds, marshes, wetlands and location of existing and proposed buildings and structures.
- E. Approval of the Certified Survey Map or Plat by the Commissioner does not remove the obligation of the person to seek a highway permit in compliance with this Chapter.
- F. In the case where a property owner owns more than one adjacent parcel (of the same use) with frontage on a county trunk highway, all parcels shall be treated as a single parcel for the purposes of this chapter.
- G. Only one access shall be allowed per parcel used for residential purposes.
- H. Notwithstanding sec. 32-15(K), below, agricultural properties may have one point of access per 40 acre field unless the Commissioner, in writing, finds that practical difficulty and unnecessary hardship would result from having only one access point.
- I. Parcels used for commercial and industrial purposes may be allowed two points of access provided they each separately meet the remaining criteria of this Chapter, and require more than 50 parking spaces.
- J. All other parcels shall meet the criteria as set forth below.
- K. Access permits shall not be issued where the horizontal distance between access points measured at the centerline, would become less than:
 - 1. 600 feet or no more than 6 per mile for Rural County Highways.
 - 2. 350 feet or no more than 10 per mile for Semi-urban County Highways.
 - 3. 200 feet or no more than 14 per mile for Urban County Highways.

4. For purposes of this section, local roads, state and county highways shall not be counted as access points.
 5. For purposes of this section, agricultural driveways shall not be counted as access points.
- L. Access points must be at least the following distances:
 1. 1,000 feet from the intersection of state and county highways, city, village or town roads, in existence or officially mapped.
 2. New and/or proposed road shall be at least 1,000 feet from the intersection of any public roads in existence or officially mapped.
 - M. Whenever possible, roads should not be staggered, creating “T” intersections, but should connect with other roads, driveways on the opposite side of the highway.
 - N. Permits for driveways designated “other” are not subject to paragraph “K” above. Instead, the Commissioner may issue other driveways after consultation, consistent with the stated goals of Section 32-2 above.
 - O. Whenever possible, frontage roads should be used to promote the stated goals as set forth in Sec. 32-2, above.
 - P. The Commissioner may reduce these requirements in the event it is deemed unnecessary to meet the provision of Section 32-2.

Sec. 32-16. Location, Design and Construction Requirements.

The location, design and construction of an entrance upon or departure from a County Trunk Highway shall be in accordance with the following policies and limits, which in no case shall be exceeded unless specific written authorization is obtained from the Commissioner. The Commissioner shall work to ensure that all access points are in compliance with this Section.

- A. A driveway shall have a maximum top width of twenty-four (24) feet for residential and a maximum driveway top width of thirty-five (35) feet for commercial, industrial and agricultural uses unless otherwise approved by the Commissioner. The entire driveway roadway shall be contained within the frontage along the highway of the property served unless otherwise approved by the Commissioner.
- B. All driveways shall be constructed so as to ingress and egress the County Trunk Highway at an angle of ninety (90) degrees to the County Trunk Highway, unless otherwise approved by the Commissioner.
- C. A driveway shall not provide direct ingress or egress to or from a County Trunk Highway intersection.
- D. All driveways shall be constructed of solid load bearing material. The top surface of the driveway shall consist of at least six inches of gravel upon the traveled portion.
- E. The surface of the driveway connecting with the highway section shall slope down and away from the highway shoulder a sufficient amount and distance to preclude ordinary surface water drainage flowing from the driveway area onto the highway roadbed.
- F. No concrete approaches or aprons shall be permitted within the highway right of way except in curb and gutter areas.
- G. Driveways shall not obstruct or impair drainage in highway side ditches or roadside areas. A culvert shall consist of any WiDOT approved material culvert pipe with apron end walls. The Commissioner shall determine the culvert length. The culvert and apron end walls shall be installed by the property owner, subject to the approval of the Commissioner. Culverts shall be installed at least ten (10) feet from the owner’s sideline, unless otherwise approved by the Commissioner.
- H. All driveways shall be constructed or reconstructed to have sloped sides, unless the streets have curb and gutter. Such construction shall be accomplished using only soil materials.

The side slopes of the driveway shall be sloped at no more than a length to height grade ratio of 4:1. All slopes shall be seeded or sodded by the property owner.

- I. The restricted area between successive driveways may be filled in or graded down only if the following requirements are fully complied with:
 - (1) The filling in or grading down shall be to grades approved by the Commissioner except where highway drainage is by means of curb and gutter, in which case water drainage of the area shall be directed away from the highway roadbed in a manner approved by the Commissioner.
 - (2) Culvert extensions under the restricted area shall be of like size and equivalent acceptable material as the driveway culvert. Intermediate manholes adequate for cleanout purposes may be required as deemed necessary by the Commissioner dependent upon the total culvert length.
- J. All driveways shall be at least 10 feet from a side or rear property line, unless the driveway is to be shared with the adjacent property owner(s). Shared driveways for residential access shall have a recorded cross easement.
- K. The Commissioner may impose any other construction requirements deemed necessary with regard to the construction of any access point. The Commissioner may, in accordance with generally accepted engineering practices require a specific design for the access point as it relates to sight distance, return radius, angle, profile, width, paved aprons or turning lanes, parking and internal circulation.

Sec. 32-17. Wetland Ordinances Controlling.

Any wetland ordinances enacted by Calumet County shall take precedence over any conflict arising between such wetland ordinances and this ordinance.

Sec. 32-18. Reconsideration and Rehearing.

- A. No application that has been dismissed or denied shall be reconsidered without material alteration of the original petition and conditions, within three years of the decision, except pursuant to Court Order.
- B. No rehearing shall be held except upon the affirmation vote of the Calumet County Highway Committee upon finding that substantial new evidence is submitted. Requests for rehearing shall be in writing, shall state the reasons for the request, and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice and fee requirements as original hearings.

Sec. 32-19 to 32-30. Reserved.

(Ord. No. 1993-9; 11-1-93. Repealed by Ord. No. 2000-20; Replaced with §§(1)-(15), 3-20-2001; Ord. No. 2000-20, Repealed by Ord. No. 2003-7; Replaced with 32-1 to 32-17; 6-17-03; Ord. No. 2005-20, January 17, 2006; Ord. No. 2006-3, §32-16 & §32-17, 6-20-06; Ord. No. 2006-17, §32-18, 2-20-07. Ord. No. 2007-03, §32-7, 5-15-07; Ord. No. 2008-1, Articles 1 & 2; Ord. No. 2008-05, 11-3-08, Ord. No. 2008-11, 2-17-09, Ord. No. 2012-05, 12-18-12, Ord. No. 2018-02, 6-19-18 (32-7 E & 32-8 F)).

ARTICLE III.

UTILITY POLICY

Sec. 32-31. Utility Relocation Costs.

(a) Whenever a utility company relocates cables, poles or other utility structures within the minimum setback distance from the centerline of a county trunk highway as set forth in article III of Chapter 82, Zoning Ordinance, such utility relocating a cable, pole or other utility structure within the minimum setback distance of the center of a county trunk highway shall be responsible for paying any and all costs of relocating such cable, pole or other utility structure when such relocation is necessary due to a county highway project, regardless of whether or not such cable, pole or utility structure sits on public or private property located within the minimum setback distance from the centerline of a county trunk highway as contained in article III of Chapter 82, Zoning Ordinance. This section includes, but is not limited to, county trunk highway projects that require the expansion or widening of a county trunk highway or county trunk highway right-of-way within the minimum setback distances set forth in article III of Chapter 82, Zoning Ordinance.

(b) Upon receiving notice from the county Highway Committee that a utility structure is interfering with the expansion or improvement of a county trunk highway within the minimum setback distances set forth in article III of Chapter 82, Zoning Ordinance, the utility shall take immediate steps to move the utility structure.
(Ord. No. 1991-11, §§ 1, 2, 6-18-1991)

Sec. 32-32. Utility Permits Upon Calumet County Trunk Highways.

(a) Compliance with Ordinance. Any person, firm or corporation seeking to install or reinstall a utility over, under, across or parallel to a Calumet County trunk highway or right-of-way, shall comply with the requirements of this section, any other applicable County ordinances and the Calumet County Utility Accommodation Policy 96.00.

(b) Permit Required to Install or Reinstall or Reconstruct Utility. No utility shall be installed, reinstalled or reconstructed over, under, across or parallel to a Calumet County Highway without the person, firm or corporation seeking to install, reinstall or reconstruct the utility first obtaining a permit from the Calumet County Highway Commissioner or his or her designee.

(c) Applications for permits.

1. Permits shall be applied for at the Calumet County Highway Department, 241 E. Chestnut St., Chilton, WI 53014, upon application forms to be provided by the Calumet County Highway Commissioner.

2. Non-refundable application permit fee and all applicable fees shall be established by the Highway Committee. A schedule of the fees shall be available for review in the Highway Department.

a. Definitions:

1. Boring: Where a circular hole is drilled under the road without disturbing the road surface.

2. Open Cut: The cutting of the trench or an opening across a road surface.

3. Plowing: The threading of an electrical or telecommunications line into the soil by the use of a mechanical device specifically designed for that purpose with minimal disturbance to the soil surface.

3. If any person under this Chapter failed to obtain a utility permit required under this section, the responsible party may attempt to correct the violation by applying for an after-the-fact utility permit.

a. Procedure.

1. Upon notification of the violation, the responsible party may apply for a permit as provided in paragraph (c)1. above.
2. Upon submittal of a complete application, the application shall be processed as provided by this Article.
3. The after-the-fact permit application shall not be deemed complete until a double permit application fee has been submitted. All fees are non-refundable.

(d) Requirements.

1. Hold Harmless Agreement.

Applicants for Utility Permits shall save and hold the Calumet County and its officers, employees and agents, harmless from all liability, damage, loss, expense, claims, demands, and actions of any nature whatsoever arising out of any acts or omissions of the applicant in any way connected with the work to be performed, pursuant to the permit, or the construction or maintenance of facilities by the applicant in the County right-of-way, which is the subject of the permit issued.

2. Location, Design and Installation.

The location design and installation of utilities over, under, across or parallel to Calumet County Trunk Highways shall be in accordance with such engineering safety requirements as are promulgated, in writing, by the Calumet County Highway Committee.

(e) Application and Review Procedures:

1. The authority to approve, conditionally approve, or reject applications is delegated to the Calumet County Highway Commissioner or designee.

2. The permit shall be granted when:

- a. Such use and occupancy does not adversely affect the primary functions of the Highways or materially impair their safety, operational, or visual qualities; and
- b. There would be no conflict with the provisions of Federal, State or Local laws or regulations or the accommodation provisions stated in the WCHA Utility Accommodation Policy 96.00; and
- c. The occupancy will not significantly increase the difficulty or future cost of Highway construction or maintenance.

3. Permits shall only be issued in the name of the individual or entity that will own the utility facility, which is to be placed in County right-of-way.

(f) Appeal. Any order or decision issued pursuant to this section may be appealed to the Calumet County Highway Committee.

(Ord. No. 2005-14, 10-31-05. Ord. No. 2008-10, 1-20-2009. Ord. No. 2012-05, 12-18-12.)

Sec. 32-33. Permit for Operation of Oversized Vehicles Upon County Trunk Highways.

(a) Compliance with Ordinance: Any person, firm or corporation seeking to operate an oversized vehicle upon a Calumet County Trunk Highway shall comply with the requirements of this Ordinance.

(b) Oversized vehicle means any vehicle that is overwide, overhigh, overlong, or overweight, in contravention of §348.05, §348.06, §348.07, or §347.15, Wisconsin Statutes, and as amended.

(c) Permit Required to Operate Oversized Vehicle:

1. No person, firm or corporation shall operate an oversized vehicle upon County Trunk Highways without first obtaining a permit from the Calumet County Highway Committee.

2. Applications to permit oversized vehicles upon Calumet County Trunk Highways shall be applied for at the Calumet County Highway Department, 241 E. Chestnut St., Chilton, WI 53014. Upon forms to be provided by the Calumet County Highway Committee.

3. A non-refundable permit fee and any other applicable fees for overweight, overwide, overhigh or overlong vehicle operation on Calumet County Highways shall be established by the Highway Committee. A schedule of fees shall be available for review in the Highway Department.

4. Permits shall be issued only in the name of the owner of the vehicle to be operated.

5. If any person under this Chapter failed to obtain an oversized vehicle permit required under this section, the responsible party may attempt to correct the violation by applying for an after-the-fact oversized vehicle permit.

a. Procedure.

1. Upon notification of the violation, the responsible party may apply for a permit as provided in paragraph (c)2. above.
2. Upon submittal of a complete application, the application shall be processed as provided by this Article.
3. The after-the-fact permit application shall not be deemed complete until a double permit application fee has been submitted. All fees are non-refundable.

(d) Denial of Permit Application: The Calumet County Highway Committee may refuse to grant a permit upon application for the operation of an oversized vehicle upon Calumet County Highways under the following conditions:

1. When operation of such vehicle is reasonably likely to interfere with the safety of those persons utilizing Calumet County Trunk Highways.

2. When the weight of a vehicle is such so as to be likely to cause damage to a Calumet County Trunk Highway as a result of operation thereupon.

(e) Restrictions. The Calumet County Highway Committee may issue a permit for the operation of an oversized vehicle upon Calumet County Trunk Highways with such restrictions as it deems appropriate, so as to protect the safety and welfare of those persons utilizing Calumet County Trunk Highways.

(Ord. No. 2005-13, 10-31-05; Ord. No. 2012-05, 12-18-12.)

Sec. 34 to 70. Reserved.

ARTICLE IV.

SPEED LIMITS

Sec. 32-71. Speed Limits.

A. 25 MPH Speed Zones

CTH B	St. John From intersection with CTH BB east 1,420 feet and west 1,140 feet	Total Length 2,560 feet
CTH BB	St. John-traveling south bound only From intersection with CTH B north 480 feet and south 1,904 feet	Total Length 2,384 feet
CTH BB	St. John-traveling north bound only From intersection with CTH B south 1,110 feet and north 480 feet	Total Length 1,590 feet
CTH E	Stockbridge From intersection with STH 55 east 1,262 feet and west 1,288 feet	Total Length 2,550 feet
CTH F	Chilton From intersection with USH 151 to Intersection of Breed Street	Total Length 4,070 feet
CTH G	Chilton – north & south bound From intersection with STH “32/57” south 1,502 feet	Total Length 1,502 feet
CTH H	New Holstein From intersection with STH 32/57 to 1,638 feet west of Plymouth Street	Total Length 2,763 feet
CTH J	New Holstein From intersection with CTH X to 420 feet south of Trimborn Avenue	Total Length 4,019 feet
CTH PP	Potter From 40 feet east of Hillcrest Lane to 630 feet east of Pheasant Street	Total Length 4,260 feet
CTH PP	Brillion From intersection with USH 10 to 1,150 feet north of USH 10	Total Length 1,150 feet
CTH X	New Holstein-traveling east bound only From intersection with STH 32/57 east to 1,272 feet east of Clark Drive	Total Length 1,852 feet
CTH X	New Holstein-traveling west bound only From 625 feet east of Clark Drive to intersection with STH 32/57	Total Length 2,209 feet

CTH Y Chilton Total Length 5,950 feet
From intersection with STH 32/57 to intersection with Breed Street

AA. 30 MPH Speed Zones

CTH LP Appleton Total Length 555 feet
From intersection with CTH AP south 555 feet

CTH AP Appleton Total Length 8,179 feet
From intersection with Oneida Street to Intersection of Plank Road Roundabout.

B. 35 MPH Speed Zones

CTH A St. Anna Total Length 3,000 feet
From intersection with CTH Q north 3,000 feet

CTH AP Appleton Total Length 8,390 feet
From intersection with Plank Road Roundabout to Coop Rd

CTH C Jericho-traveling north bound only Total Length 1,699 feet
From intersection with CTH H south 798 feet and north 901 feet

CTH C Jericho-traveling south bound only Total Length 1,815 feet
From intersection with CTH H north 1,013 feet and south 798 feet

CTH E Stockbridge Total Length 1,020 feet
From 1,262 feet east of intersection with STH 55 to 2,282 feet east of intersection with STH 55

CTH E Stockbridge Total Length 1,848 feet
From 1,288 feet west of intersection with STH 55 to 248 feet east of Lakeshore Drive

CTH EE County Park Total Length 810 feet
From Park Entrance to 810 feet east of Rockland Beach Rd.

CTH F Chilton-traveling west bound only Total Length 762 feet
From Intersection of State Rd. to 762 feet west

CTH F Chilton-traveling east bound only Total Length 464 feet
From 464 feet west to Intersection of State Rd

CTH G Chilton – north & south bound Total Length 1,804 feet
From 1,502 feet south of intersection with STH “32/57” to 1,566 feet south of M-B Lane

CTH H Jericho Total Length 2,500 feet
From intersection with CTH C west 1,645 feet and east 855 feet

CTH KK Darboy Total Length 7,800 feet

From 240 feet east of Hopfensberger Rd. to N. Coop Rd.

CTH M	Sherwood From 356 feet south of Kesler Rd. to intersection with STH 55/114	Total Length 4,100 feet
CTH N feet	Village of Harrison-traveling south and north bound From intersection with CTH KK south 500 feet south of Hearthstone Dr.	Total Length 2,664
CTH PP	Potter From 1,300 feet east of Reimer Rd. to 40 feet east of Hillcrest Dr.	Total Length 885 feet
CTH X	New Holstein-traveling west bound only From 1,338 feet west of Rabes Hilltop Rd. to 1,981 feet west of Rabes Hilltop Rd.	Total Length 643 feet
CTH Y	Chilton-traveling east bound only From the intersection with Center St. to 544 feet east of Irish Rd.	Total Length 1,449 feet
CTH Y	Chilton-traveling west bound only From 694 feet east of Irish Rd. to intersection with Center St.	Total Length 1,600 feet
CTH Y	Potter-traveling north bound only From 1,207 feet south of intersection with CTH PP to CTH PP intersection	Total Length 1,207 feet
CTH Y	Potter-traveling south bound only From Intersection with CTH PP south 2,023 feet	Total Length 2,023 feet

C. 40 MPH Speed Zones

D. 45 MPH Speed Zones

CTH AP	Appleton From intersection with CTH LP east 2,390 feet and west 1,392 feet	Total Length 3,782 feet
CTH E	Stockbridge From 248 feet east of Lakeshore Dr. to 4,710 feet west of Lakeshore Dr.	Total Length 4,958 feet
CTH HR	Brillion From intersection with USH 10 to 300 feet east of Bastian Rd.	Total Length 2,086 feet
CTH KK	Village of Harrison From 1,075 feet east of State Park Rd. to 240 feet east of Hopfensberger Rd.	Total Length 3,723 feet
CTH LP	Appleton From 555 feet south of intersection with CTH AP to intersection with USH 10	Total Length 9,745 feet
CTH N	Darboy From 575 feet south of Schmidt Rd. to 500 feet south of Hearthstone Dr.	Total Length 3,378 feet

- CTH PP Brillion-traveling north bound only Total Length 1,807 feet
From 1,807 feet south of S. Glenview Ave. to intersection with
S. Glenview Ave.
- CTH PP Brillion-traveling south bound only Total Length 1,870 feet
Intersection with S. Glenview Ave. to 1,870 feet south of S. Glenview Ave.

E. 15 MPH School Zones When Children are Present

- CTH B Total Length 1,316 feet
From 780 feet east of CTH BB to 530 feet west of CTH BB
- CTH BB Total Length 1,140 feet
From 890 feet south of CTH B to 250 feet north of CTH B
- CTH H Total Length 1,643 feet
From 190 feet east of Plymouth St. to 1,453 feet west of Plymouth St.
- CTH KK Total Length 1,423 feet
From 437 feet east of Darboy Dr. to 70 feet east of Noe Rd.
- CTH Y Total Length 393 feet
From 93 feet east of Spring St. to 486 feet east of Spring St.

F. 20 MPH School Zones When Children are Present

- CTH AP West bound Total Length 540 feet
From 390 feet east of Telulah Ave. to 150 feet west of Telulah Ave.
- CTH AP East bound Total Length 590 feet
From 460 feet west of Telulah Ave. to 130 feet east of Telulah Ave.

(15 MPH: Ord. No. 2010-10, 9-21-2010)
 (20 MPH: Ord. No. 2010-10, 9-21-2010)
 (25 MPH: Ord. No. 1978-3, 7-18-78; Ord. 1982-6, 9-28-82; Ord. 1985-8, 1-21-86)
 (30 MPH: Ord. No. 2003-18, 12-16-03; Ord. No. 2015-04, 2-16-15)
 (35 MPH: Ord. No. 40, 12-19-72; Ord. 68, 9-28-76; Ord. 69, 11-09-76; Ord. 1978-3, 7-18-78;
 Ord. 1985-8, 1-21-86; Ord. 1988-5, 6-21-88; Ord. 1991-5, 5-21-91; Ord. 1997-14, 12-16-97;
 Ord. 1998-1, 4-21-98; Ord. 1999-13, 11-01-99; Ord. 2003-6, 6-18-2003; Ord. 2010-11, 9-21-
 2010; Ord. 2015-04, 2-16-16; Ord. 2017-04, 9-19-17).
 (40 MPH: Ord. No. 1981-1, 5-19-81; Ord. 1984-7, 10-30-84; Ord. 2003-6, 6-18-2003, Ord.
 2010-11, 9-21-2010; Ord. 2017-04, 9-19-17).
 (45 MPH: Ord. No. 1991-6, 5-21-91; Ord. 1996-10, 8-20-96; Ord. 1999-1, 4-20-99; Ord. 2003-6,
 6-18-2003; Ord. No. 2003-18, 12-16-2003; Ord. No. 2018-06, 9-18-2018).

ARTICLE V.

STOP SIGNS/TRAFFIC SIGNALS

Sec. 32-72. Stop Signs.

1. Stop signs on CTH A. Intersections of:
 - a) CTH Q, south traffic only.
 - b) St. Anna St., west traffic only.
 - c) Martin St., west traffic only.
 - d) Fur Farm Rd., east and west traffic.

2. Stop signs on CTH AP. Intersections of:
 - b) Eisenhower Drive, east bound traffic only.

3. Stop signs on CTH B. Intersections of:
 - a) S. Marx Rd., north traffic only.
 - b) N. Marx Rd., south traffic only.
 - c) McHugh Rd., north and south traffic.
 - d) Sawmill Rd., south traffic only.
 - e) CTH BB, north and south traffic.
 - f) Sharon St., north traffic only.
 - g) Borneman Lane, south traffic only.
 - h) Elm Rd., north and south traffic.
 - i) Kesler Rd., south traffic only.
 - j) Harwood Rd., north traffic only.

4. Stop signs on CTH BB. Intersections of:
 - a) State Rd., west traffic only.
 - b) Hickory Hills Rd., east and west traffic.
 - c) Killsnake Rd., east and west traffic.
 - d) Custer Rd., east traffic only.
 - e) Schneider Rd., west traffic only.
 - f) Faro Springs Rd., east and west traffic.
 - g) Crosstown Rd., east and west traffic.
 - h) At Railroad crossing in the Town of Woodville, north and south traffic
 - i) Greendrive Rd., east traffic only.
 - j) Alice St., east traffic only.
 - k) Stephan Ave., east traffic only.
 - l) Willow Ln., west traffic only.

5. Stop signs on CTH C. Intersections of:
 - a) Banner Rd., east and west traffic.
 - b) Dick Rd., east and west traffic.
 - c) Stone Rd., west traffic only.
 - d) W. Jefferson Rd., east and west traffic.
 - e) Schluchter Rd., east and west traffic.
 - f) Quinney Rd., east and west traffic.

6. Stop signs on CTH D. Intersections of:
 - a) Schmidt Rd., east and west traffic.
 - b) Dundas Rd., east traffic only.

7. Stop signs on CTH E. Intersections of:
 - a) CTH Y, north traffic only.
 - b) Irish Rd., north and south traffic.
 - c) McHugh Rd., north and south traffic.

- d) CTH BB, north and south traffic.
 - e) Twain Rd., north and south traffic.
 - f) Long Rd., north and south traffic.
 - g) New St., north traffic only.
 - h) Church St., south traffic only.
 - i) Union St., south traffic only.
 - j) Lakeshore Dr., north and south traffic.
 - k) Allison Dr., north traffic only.
 - l) Lake Breeze Dr., south traffic only.
 - m) Stockbridge Harbor Entrance, north traffic only.
 - n) Harbor Ridge Rd., south traffic only.
8. Stop signs on CTH EE. Intersections of:
- a) Lakeshore Dr., north and south traffic.
 - b) Rockland Beach Rd., northeast traffic only.
9. Stop signs on CTH F. Intersections of:
- a) USH 151, south traffic only.
 - b) School St., east and west traffic.
 - c) Jefferson St., east traffic only.
 - d) Court St., east traffic only.
 - e) Washington St., west traffic only.
 - f) Court House North Driveway, east traffic only.
 - g) Grand St., west traffic only.
 - h) Breed St., east and west traffic.
 - i) Breed St., north traffic only.
 - j) State Rd., south traffic only.
 - k) CTH BB, south traffic only.
 - l) Trucker Rd., north traffic only.
 - m) Finnegan Rd., south traffic only.
 - n) Long Rd., north and south traffic.
 - o) CTH C, north traffic only.
 - p) Moehrke Rd., south traffic only.
 - q) Ledge Rd., south traffic only.
 - r) N. Tower Rd., north traffic only.
10. Stop signs on CTH G. Intersections of:
- a) St. Charles Rd., east and west traffic.
 - b) Pethan Rd., west traffic only.
 - c) E. Jefferson Rd., east and west traffic.
 - d) Short Rd., east and west traffic.
 - e) Sunrise Dr., west traffic only.
 - f) M-B Lane, east and west traffic.
11. Stop signs on CTH H. Intersections of:
- a) Plymouth St., north, south, east and west traffic.
 - b) CTH A, north traffic only.
 - c) Orchard Dr., south traffic only.
 - d) Irish Rd., north and south traffic.
 - e) Dorn Rd., north traffic only.
 - f) CTH G, south traffic only. (east)

- g) S. Washington Rd., north and south traffic.
- h) S. Columbus Rd., north and south traffic.
- i) CTH G, north traffic only. (west)
- j) Pioneer Rd., south traffic only.
- k) Schoenborn Rd., northeast traffic only.
- l) Paradise Rd., southwest traffic only.
- m) St. Charles Rd., southwest traffic only.
- n) N. Town Hall Rd., south traffic only.
- o) S. Town Hall Rd., north traffic only.
- p) CTH C, north and south traffic.
- q) S. Tower Rd., north and south traffic.

12. Stop signs on CTH HR. Intersections of:

- a) Bastian Rd., north and south traffic.
- b) Hacker Dr., south traffic only.
- c) Church St., north and south traffic.

13. Stop signs on CTH J. Intersections of:

- a) Sheboygan Rd., north traffic only.
- b) Kraemer Rd., west traffic only.
- c) Foundry Rd., east and west traffic.
- d) Fur Farm Rd., east and west traffic.
- e) Trimborne Ave., east and west traffic.
- f) Silver Moon Lane, east traffic only.
- g) Jordan St., east and west traffic.
- h) Hickory Lane, east and west traffic.
- i) STH 32/57, north and south traffic.

14. Stop signs on CTH JJ. Intersections of:

- a) Fisher Rd., east traffic only.
- b) Long Lake Rd., south and west traffic.
- c) East River Rd., north and south traffic.
- d) Paul Rd., north traffic only.
- e) Monument Rd., north and south traffic.

15. Stop signs on CTH K. Intersections of:

- a) Long Lake Rd., south traffic only.
- b) Jodar Dr., north traffic only.
- c) Winkler Rd., south traffic only.
- d) Boettcher Rd., north and south traffic.
- e) Bastian Rd., north and south traffic.
- f) Holmes Rd., north traffic only.

16. Stop signs on CTH KK. Intersections of:

- a) Harvester Rd., north traffic only.
- b) Haen Rd., south traffic only.
- c) Brant-St John Rd., north traffic only.
- d) Military Rd., north traffic only.
- e) State Park Rd., north and south traffic.
- f) Hopfensberger Rd., north and south traffic.
- g) Handel Dr., north traffic only.

- h) Hank Dr., south traffic only.
- i) Gina Dr., north traffic only.
- j) Brux Rd., south traffic only.
- k) Otte Ct., north traffic only.
- l) Rogers Rd., south traffic only.
- m) Darboy Dr., north traffic only.
- n) Noe Rd., north traffic only.
- o) Main St., south traffic only.
- p) Kamkes Ave., south traffic only.
- q) Creekside Ct., south traffic only.
- r) Golden Way, north traffic only.
- s) Coop Rd., north traffic only.

17. Stop signs on CTH LP. Intersections of:

- a) Woodland Rd., west traffic only.
- b) Manitowoc Rd., east and west traffic.
- c) CTH AP, east and west traffic.

18. Stop signs on CTH M. Intersections of:

- a) Stumpf Ave., east traffic only.
- b) Leslie St., east traffic only.
- c) Nottingham Way, west traffic only.
- d) Robinhood Dr., west traffic only.
- e) Kesler Rd., east and west traffic.
- f) Harwood Rd., south traffic only.
- g) Schaefer Rd., east and west traffic.
- h) Elm Rd., west traffic only.

19. Stop signs on CTH N. Intersections of:

- a) Kuepper Rd., west traffic only.
- b) Woodland Rd., east traffic only.
- c) Manitowoc Rd., east and west traffic.
- d) Schmidt Rd., east and west traffic.
- e) Hoelzel Way, east traffic only.
- f) Jochman Dr., west traffic only.
- g) Hearthstone Rd., east traffic only.

19. Stop signs on CTH N. Intersections of: (Continued)

- h) Van's Rd., west traffic only.
- i) Mary Dr., east traffic only. (south)
- j) Macky Dr., west traffic only.
- k) Mary Dr., east traffic only. (north)

20. Stop signs on CTH PP. Intersections of:

- a) Irish Rd., north and south traffic.
- b) Hilbert Rd., north and south traffic.
- c) Reimer Rd., south traffic only.
- d) Hillcrest Ln., north traffic only.
- e) CTH Y, north traffic only.
- f) Center St., south traffic only.
- g) Market St., north traffic only.

- h) Pheasant St., north traffic only.
- i) Monument Rd., west traffic only.
- j) CTH JJ, west traffic only.
- k) Monument Rd., north traffic only.
- l) Behnke Rd., west traffic only.
- m) East River Rd., west traffic only.
- n) Voss Rd., east and west traffic.
- o) S. Deerview Rd., south traffic only.
- p) Deerview Rd., east and west traffic.
- q) Sunset Dr., north traffic only. (south)
- r) Ridgeway Dr., west traffic only.
- s) Sewage Plant Driveway, east traffic only.
- t) Sunset Dr., east and south traffic. (north)
- u) Hacker Rd., east and west traffic.
- v) Harvester Rd., east and west traffic.
- w) Rusch Rd., east and west traffic.
- x) CTH K, east and west traffic.
- y) Mancal Rd., east traffic only.

21. Stop signs on CTH S. Intersections of:

- a) Kees Rd., north and south traffic.

22. Stop signs on CTH T. Intersections of:

- a) Tecumseh Rd., east and west traffic.
- b) Charlesburg Rd., east and west traffic.
- c) Danes Rd., east and west traffic.
- d) Stahl Rd., southwest traffic only.
- e) Honeymoon Hill Rd., northeast traffic only.
- f) Buhl Rd., south and west traffic.
- g) Church Rd., south traffic only.
- h) Quarry Rd., east traffic only.
- i) Hayton Rd., north traffic only.

23. Stop signs on CTH X. Intersections of:

- a) Meggers Rd., south traffic only.
- b) Seven Corners Rd., north traffic only.
- c) CTH T, south traffic only.
- d) Rabe's Hilltop Rd., north traffic only.
- e) Clark Dr., north traffic only.
- f) CTH J, north and south traffic.
- g) CTH J, east and west traffic.
- h) STH 32/57, west traffic only.

24. Stop signs on CTH Y. Intersections of:

- a) Spring St., south traffic only.
- b) Park St., north traffic only.
- c) Main St., south traffic only.
- d) Commerce St., west traffic only.
- e) Columbia St., southeast and northwest traffic.
- f) Mill St., south traffic only.
- g) Pennsylvania Ave., northwest traffic only.

- h) Douglas St., north traffic only.
- i) Grand St., southeast traffic only.
- j) Adams St., north traffic only.
- k) Walnut St., southeast traffic only.
- l) High St., south traffic only.
- m) Fulton St., south traffic only.
- n) Wall St., east and west traffic.
- o) Graves St., east and west traffic.
- p) Breed St., north traffic only.
- q) Liberty St., north traffic only.
- r) Irish Rd., north and south traffic.
- s) Riverview Heights Ct., north traffic only.
- t) Weeks Rd., northwest and southeast traffic.
- u) Aebischer Rd., west traffic only.
- v) Steiner Rd., east traffic only.
- w) CTH E, north traffic only.
- x) Riverview Rd., west and north traffic.
- y) Lau Rd., east traffic only.
- z) Ortlepp Rd., east and west traffic.
- aa) Drier Rd., east traffic only.
- bb) Schneider Rd., southeast traffic only.
- cc) West River Rd., northwest traffic only.
- dd) Vista Ln., west traffic only.
- ee) Woodside Dr., west traffic only.
- ff) Riverdale Dr., east and west traffic.

(Ord. No. 40, 12-19-72; Ord. 42, 5-22-73; Ord. 1981-1, 5-19-81; Ord. 1985-10, 2-25-86; Ord. 1986-5, 9-16-86; Ord. 1986-11, 3-16-87; Ord. 1999-14, 11-01-99; Ord. 2002-21, 2-18-2003; Ord. 2003-6, 6-17-03; 2003-18, 12-16-03).

Sec. 32-73. Yield Signs.

- 1. CTH F
 - a) At the intersection with State Road (southwest bound)

Sec. 32-74. No Parking Zones.

CTH AP	No Parking Anytime From Huckleberry Lane to USH 10	Total Length 7,820 feet
CTH AP	No Parking From CTH KK to 1,220 feet south of CTH KK	Total Length 1,330 feet
CTH BB	No Parking Here to Corner (south bound) From CTH E to 90 feet south of CTH E	Total Length 90 feet
CTH BB	No Parking Here to Corner (north bound) From 150 feet south of CTH E to CTH E	Total Length 150 feet
CTH BB	No Parking During School Hours From 85 feet south of Stephan Ave to 90 feet north of Stephan Ave.	Total Length 175 feet

CTH E	No Parking Here to Corner From 155 feet west of CTH BB to CTH BB	Total Length 155 feet
CTH F	No Parking Here to Corner From 180 feet east of Moehrke Rd. to Moehrke Rd.	Total Length 180 feet
CTH H	No Parking This Side of Street From 700 feet west of Plymouth St. to 1,640 feet west of Plymouth St.	Total Length 940 feet
CTH KK	No Parking Anytime (west bound) From 155 feet east of Hank Dr. to N. Coop Rd.	Total Length 6,398 feet
CTH KK	No Parking Anytime (east bound) From N. Coop Rd. to 135 feet west of Handel Dr.	Total Length 6,536 feet
CTH N	No Parking Anytime (south bound) From CTH KK to Hoelzel Way	Total Length 4,320 feet
CTH N	No Parking anytime (north bound) From 450 feet north of Hoelzel Way to CTH KK	Total Length 3,856 feet
CTH PP	No Parking Here to Corner From CTH Y to 70 feet east of CTH Y	Total Length 70 feet
CTH PP	No Parking Here to Corner From 65 feet west of Market St. to Market St.	Total Length 65 feet
CTH Y	No Parking Here to Corner From 90 feet north of Main St. to Main St.	Total Length 90 feet
CTH Y	No Parking Here to Corner From STH 32/57 to 75 feet east of STH 32/57	Total Length 75 feet

Sec. 32-75. Parallel Parking Only.

CTH M	STH 55/114 to Kesler Rd. (north bound)	Total Length 4,400 feet
CTH Y	CTH PP to 170 feet north of Vista Lane	Total Length 1,200 feet

(Ord. No. 42, 5-22-73)

Sec. 32-76. Winter Parking Regulations.

No Parking
1 am to 8 am
Nov 15 to Apr 1

CTH A	From CTH Q to 2,422 feet north of CTH Q	Total Length 2,422 feet
CTH PP		Total Length 5,754 feet

From 890 feet east of Reimer Rd. to 814 feet east of Pheasant St.

CTH Y From CTH PP to 120 feet south of Vista Ln Total Length 1,489 feet

No Parking
2:30 am to 6 am
Nov 15 to Mar 31

CTH E Total Length 2,195 feet
From 1,165 feet west of STH 55 to 1,030 feet east of STH 55

Sec. 32-77. Class B Weight Limit.

CTH BB From USH 10 to CTH B Total Length 15,836 feet

ARTICLE VI.

ALL-TERRAIN/UTILITY-TERRAIN (ATV/UTV) VEHICLES

Sec. 32-100. State All-Terrain/Utility Terrain Vehicle Laws Adopted.

(a) Under authority of Wis. Stats. §§ 59.54(6) and 349.06(1), the County hereby adopts the provisions of Wis. Stats. chs. 23, 174, 340—348, 350 and all MVD and TRANS chapters of the Wis. Admin. Code and all acts amendatory thereto. These provisions are hereby incorporated by reference as published in the most recent revision to the specific statute or rule involved.

(b) The statutory provisions describing and defining regulations with respect to all-terrain vehicles in Wis. Stats. § 23.33, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of the statutes, are adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this article. Any further amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this article in order to secure uniform statewide regulation of all-terrain vehicles.

Sec. 32.101. Statutory Authority.

(a) This route is created pursuant to Wis. Stats. §§ 23.33(8)(b), 23.33(11), and 59.02.

(b) In addition, the provision of Wis. Stats. § 23.33, and the provisions of Wisconsin Administrative Code NR 64 regulating all-terrain vehicle operations are hereby adopted.

Sec. 32.102. Purpose or Intent.

(a) Calumet County adopts the following all-terrain vehicle (ATV) and utility terrain vehicle (UTV) ordinance and routes for the operation of ATVs and UTVs upon the highways listed on the Calumet County website, as well as the Calumet County Highway Department, 241 E. Chestnut St, Chilton, WI.

(b) Following due consideration of the recreational value to connect route opportunities and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this ordinance has been created.

Sec. 32.103. Requirements.

(a) Any request for an ATV or UTV route must be submitted to the Highway Department in writing and must be accompanied by a supporting resolution of the municipality the ATV or UTV route is located. The submittal letter must contain the county highway involved, the period of the year for which the route is being requested, and the beginning and end location.

(b) The request must indicate the need for the route.

(c) The applicant shall be a township, village, or city.

(d) The municipality of jurisdiction is the responsible party for the costs in developing a sign plan. This should be provided to the Calumet County Highway Department prior to any installation.

(e) The purchase of the signs, installation and the maintenance of the signs will be done by the Calumet County Highway Department. The applicant will be financially responsible to reimburse the County for all signs, installation, and maintenance of all signs in their jurisdiction.

(f) Any requested route must connect two routes or provide access to a related business.

(g) Any request must be accompanied by a work in the right of way permit application with associated fee and highlighted map illustrating the connecting route.

Sec. 32.104. Routes.

(a) The county board and/or highway committee or highway commissioner may revoke any route at any time for any reason.

(b) The roads that are designated as routes shall be posted on the County's website, and at the Calumet County Highway Department, 241 E Chestnut St, Chilton, WI.

(c) Said routes are further described and identified by the attached maps.

Sec. 32.105. Conditions.

The operation of ATVs or UTVs on any portion of a county highway designated as an ATV and/or a UTV route is subject to the following:

(a) Operators and passengers, when applicable, shall comply with all federal, state, and local applicable laws, orders, regulations, restrictions and rules, including Wis. Stats. § 23.33, and Wisconsin Administrative Code NR 64.

(b) ATV and UTV operators will be required to follow the posted speed limit or maximum speed of 35 miles per hour.

(c) ATV and UTV operators shall slow the vehicle to ten miles per hour or less when operating within 150 feet of a dwelling.

- (d) ATV and UTV operators are required to have applicable liability insurance.
- (e) ATVs and UTVs shall be operated on the extreme right side of the roadway on the paved surface.
- (f) ATV and UTV operators shall ride single file.
- (g) ATVs and UTVs may be operated on the designated route if, and only if, routes are signed in accordance with NR 64.12(7), DNR guidelines, and the Manual on Uniform Traffic Control Devices (MUTCD), including Wisconsin's Supplement.

Sec. 32.106. Enforcement.

This article shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

Sec. 32.107. Penalties.

The penalties found in Wis. Stats. § 23.33(13)(a), are adopted by reference.

32.108. Severability.

The provision of this article shall be deemed severable and it is expressly declared that Calumet County would have passed the other provisions of this article irrespective of whether or not one or more provisions may be declared invalid. If any provision of this article or the application to any person or circumstances is held invalid, the remainder of the article and the application of such provisions to other person's circumstances shall not be deemed affected.

(December 17, 2019; Ord. No. 2019-06)

Chapter 33

RESERVED

Chapter 34

HEALTH AND HUMAN SERVICES*

* **Cross References:** Administration, ch. 2.

Sec. 34-1. Establishing Health and Human Services Board and Health and Human Services Director.

Sec. 34-2. Reserved.

Sec. 34-3. Aging and Disability Resource Center and Committee.

Sec. 34-1. Establishing Health and Human Services Board and Health and Human Services Director.

(a) *Findings.* In August, 1982, the County Board determined that consolidation of the Social Services Department and the Unified Board would result in a more efficient, coordinated Health and Human Services and would be more responsive to the needs of our citizens.

(b) *Creation of a single department.* The County Board, upon the approval of the Secretary of the Department of Health and Social Services, hereby creates Health and Human Services.

(c) *Composition of committee.* A Health and Human Services Board shall be created consisting of nine members, appointed by the County Board. The committee members shall consist of nine persons, three of whom are non-supervisors consistent with the Rules of the County Board.

(Res. No. 1982-61, 2-15-1983)

(Res. No. 1998-8, 5-19-1998; Ord. No. 2012-03, 6-19-12)

Sec. 34-3. Aging and Disability Resource Center and Committee.

(a) Health and Human Services is also designated as the Aging and Disability Resource Center, pursuant to Wis. Stats. §46.82.

(b) The Aging and Disability Resource Center/Long Term Support Committee shall act to improve the quality of life of the senior citizens of the county. The members of the committee shall be appointed by the County Administrator, subject to confirmation by the County Board for two-year non-staggered terms with a maximum of service of six years. The committee shall consist of nine persons of which at least 51 percent of the members shall be senior citizens, 60 years of age or over and at least three members shall be County Board Supervisors. The committee shall be representative of all income levels and minority backgrounds of the older adult population of the county. Individuals with real or potential conflict of interest through their employment by agencies funded by the County may not be appointed to the committee.

(c) Responsibilities of the Aging and Disability Resource Center/Long Term Support Committee shall be as follows:

- (1) Serves as an advisory committee;
- (2) Compile and distribute information about older adults;

- (3) Review the annual plan;
- (4) Review proposals relating to matters affecting older people;
- (5) Provide information to individuals, groups and the community about the needs, interests, circumstances and services available to older people;
- (6) Identify and encourage the development of opportunities which enable older people to fully contribute to the welfare of the community;
- (7) Advocate on behalf of older adults.
- (8) Monitor the nutrition, transportation and other programs provided by the Department.
(Ord. No. 1990-1, §§ 2--10, 4-17-1990; Res. No. 2002-11, 7-16-2002)
Cross References: Administration, ch. 2.

Chapter 35

RESERVED

Chapter 36 LAND PRESERVATION

Article I. Purchase of Agricultural Conservation Easement (PACE) Program

Sec. 36-1. Title.
Sec. 36-2. Authority
Sec. 36-3. Purpose.
Sec. 36-4. Scope and Intent.
Sec. 36-5. Applicability.
Sec. 36-6. Definitions.
Sec. 36-7. Reserved.
Sec. 36-8. Program Administration.
Sec. 36-9. PACE Committee.
Sec. 36-10. Non-Profit Conservation Organization.
Sec. 36-11. Reserved.
Sec. 36-12. Ranking Criteria.
Sec. 36-13. Easement Terms and Conditions.
Sec. 36-14. Application and Evaluation Procedure.
Sec. 36-15. Appraisal Review.
Sec. 36-16. Purchase of Conservation Easement.
Sec. 36-17. Program Funding.
Sec. 36-18. Program Non-exclusivity.
Sec. 36-19-24. Reserved.

ARTICLE 1.

PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT (PACE) PROGRAM

Sec. 36-1. Title.

This chapter shall be known as the “Purchase of Agricultural Conservation Easement Ordinance” and may be cited as the “PACE Ordinance” or the “PACE Program”. Hereinafter it shall be referred to as “this chapter”.

Sec. 36-2. Authority.

This chapter is adopted pursuant to the authority granted by §§59.03, 93.73 and 700.40, Wis. Stats.

Sec. 36-3. Purpose.

From 1992 to 1997 Calumet County saw the number of farms in the County decrease by 93 farms and the amount of land in farming decrease by 18,626 acres. Post 1997 the amount of transactions and conversion of agricultural land decreased sharply; however, during that time period the sale price of agricultural land increased by 35% making it appealing to sell agricultural land. (*Source: U.S. Census of Agriculture*)

Based on 2005 statistical data and the East Central Wisconsin Regional Planning Commission population projections, between 2010 and 2030 the County will need an additional 11,094.4 acres to meet housing demand, another 2,749.5 acres for commercial and industrial land use demand, and 885.1 acres for institutional needs. (*Source: Calumet County Year 2025 Comprehensive Plan, 2007*).

The County currently relies primarily on farmer good will, Use Value Assessment and Exclusive Agricultural Zoning to preserve its valuable working lands. Since 2003 County

planning groups have extensively studied agricultural trends in the County and concluded current agricultural preservation tools may not be adequate to preserve land for future agricultural needs. Both the Calumet County *Year 2025 Comprehensive Plan, adopted 2007*, and the Agricultural Preservation Plan (*Calumet County Farmland Preservation Plan 2010, adopted 2009*) discuss the need to preserve agricultural land, goals and objectives for preserving said lands, and implementation strategies. One tool recommended to preserve land is a Purchase of Agricultural Conservation Easement Program.

The purposes of this chapter are as follows:

- (a) Establish a program by which the County, in cooperation with the Wisconsin Department of Agriculture and Consumer Protection (DATCP), and other local, state, and federal agencies, and private donors and organizations, can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County's agricultural resources are protected and efficiently used;
- (b) Protect and enhance the investment made in our agricultural economy;
- (c) Preserve working lands to meet current and future food and fiber needed to sustain the life, health and welfare of the people of Calumet County;
- (d) Preserve prime farm and forest land, open space, and the rural character of Calumet County;
- (e) Preserve lands valuable for protecting Calumet County's water resources, habitat, and other natural resources;
- (f) Assist in shaping the economy, character and direction of the development of Calumet County;

Improving the quality of life for the inhabitants of Calumet County; and

Promoting tourism through the preservation of scenic resources.

Sec. 36-4. Scope and Intent.

The scope of the PACE Program is to secure at least one easement annually through voluntary participation in the Program.

The intent of the Program is to preserve the County's working lands by purchasing conservation easements only on those agricultural lands that rank high utilizing the Ranking Criteria found in Sec. 36-12.

Sec. 36-5. Applicability.

Any conservation easement acquired under the PACE Program shall be voluntarily offered by the land owner. The PACE Program shall be available for all lands located in the unincorporated areas of Calumet County meeting all of the following criteria:

- (a) The land must be zoned either General Agricultural, Exclusive Agricultural, or in a

certified Farmland Preservation Zoning District under Ch. 91, Wis. Stats.

- (b) The owner of the land must be implementing County Land & Water Conservation Department best management practices, as determined by the County Planning, Zoning, and Farmland Preservation Committee or its designee.
- (c) The land must be actively farmed, as determined by the County Land & Water Conservation Department.
- (d) The land must be designated as General Agriculture or Agricultural Enterprise on the town Comprehensive Plan *Preferred Land Use Map*, and, in a Farmland Preservation Area on the *Calumet County Farmland Preservation Plan 2010, Farmland Preservation Plan Map*.
- (e) Land shall not be located in a Sewer Service Planning Area, as mapped upon the date of adoption of this chapter.
- (f) The land may need to meet additional criteria to be eligible for the Wisconsin PACE Program and other funding programs.

Sec. 36-6. Definitions.

- (a) *Word Usage.* In the interpretation of this chapter, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:
 - (1) *Tense.* Words used or defined in one tense or form shall include other tenses and derivative forms.
 - (2) *Singular and Plural.* Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - (3) *Gender.* The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
 - (4) *Shall.* The word “shall” is mandatory.
 - (5) *May.* The word “may” is permissive.
- (b) *Definitions.* When used in this chapter, the following terms shall have the meanings herein assigned to them. Words used in this chapter, but not defined herein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it. For words specific to agriculture and the State of Wisconsin Farmland Preservation Program the definitions found in Ch. 91 and Sec. 93.73, Wis. Stats. shall supersede all other definitions found in a dictionary. For purposes of easy reference within this section, the following terms will appear in italicized print.

Board. The Calumet County Board of Supervisors.

Conservation Easement. A holder’s non-possessory interest in real property imposing any limitation or affirmative obligation the purpose of which includes retaining or protecting natural values of real property; assuring the availability of real property for agricultural aspects of real property.

County. Calumet County, Wisconsin, one of 72 counties of the State of Wisconsin. See Wis. Stat., §2.01 (8).

Division Rights. The number of new parcels into which a parcel could be divided and developed with a dwelling and all associated improvements and utilities under the *Base Development Yield and Growth Management* regulations stated in *Chapter 62, Land Division, Article III*, and, *Chapter 82, Zoning Code*, both of the *Calumet County Code of Ordinances*. Each division right represents the right to build a single dwelling, regardless of whether it is a primary or secondary dwelling.

Forced Sale. A sale of a parcel with unused development rights in a manner prescribed by law that is conducted under a judgment, order or the supervision of a court of competent jurisdiction, other than a sale arising from a partition action; a sale resulting from foreclosure under the laws of the State of Wisconsin; or, a sale that is not the voluntary act of the owner but is compelled in order to satisfy a debt evidenced by a mortgage, judgment, or a tax lien.

GIS. Also known as ‘Geographic Information System’. A system of computer hardware and software that is used for storage, analysis and display of geographically referenced data, most commonly in the form of maps.

Hardship. An economic hardship, other than a circumstance causing a forced sale, experienced by the owner of the parcel so as to compel him to place a parcel with unused development rights for sale or to use such development rights.

Holder. A ‘Holder’ is determined to be either of the following: 1. Any governmental body empowered to hold an interest in real property under the laws of Wisconsin or the United States. 2. Any charitable corporation, charitable association or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Immediate Family. An owner’s spouse and his or her children residing in the same household as the owner.

Non-Profit Conservation Organization. A non-stock corporation, charitable trust, or other entity whose purposes include the acquisition of property for conservation or agricultural preservation purposes, that is described in section 501 (c) (3) of the Internal Revenue Code, that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code, and that is a qualified organization under section 170 (h) (3) of the Internal Revenue Code.

Owner. The owner or owners of the freehold interest of the parcel.

PACE Committee. A committee who, for purposes of this chapter, is to review PACE applications and decide which applications should be pursued for the purchase of a conservation easement. Full committee details are further explained in Sec. 36-9.

Program Administrator. The Director of the Calumet County Land & Water Conservation Department.

Parcel. A lot or tract of land, lawfully recorded in the Calumet County Register of Deed's Office. Because a conservation easement may contain one or more parcels, for purposes of the PACE Program the term "parcel" shall include all parcels covered by, or proposed to be covered by, the conservation easement.

Retained Division Rights. The number of parcels into which a parcel subject to a conservation easement may be divided as provided for in this chapter.

Sewer Service Planning Area. As defined in Wisconsin NR121. Generally described as an area designated on a map intended to reflect where sewer laterals should be placed to meet future needs. A sewer service planning area serves to help protect communities from adverse water quality impacts through development of cost-effective and environmentally sound 20-year sewerage system growth plans. A sewer service area plan identifies existing sewer areas as well as adjacent land most suitable for new development. A sewer service planning area also identifies areas where sewers should not go, such as environmentally sensitive areas where development would have an adverse impact upon water quality.

Sec. 36-7. Reserved.

Sec. 36-8. Program Administration.

(a) *Designation.* The Director of the County Land & Water Conservation Department is hereby designated as the Program Administrator.

(b) *Powers and Duties.* The Program Administrator, or his designee, shall administer the PACE Program and shall have the powers and duties to:

- (1) Establish reasonable, standard procedures and forms for the proper administration and implementation of the Program.
- (2) Promote the Program, in cooperation with the PACE Committee, by providing educational materials to the public and conducting informational meetings.
- (3) Investigate and pursue, in conjunction with the County Administrator, other local, state, federal and private programs available to provide additional public and private resources to fund the Program and to maximize private participation.
- (4) Issue a call for applications for the PACE Program.
- (5) In partnership with the Director of the County Land & Water Conservation Department, and if applicable staff from UW Extension, evaluate all applications to determine their eligibility and their ranking score (per Sec. 36-12), rank applications based on their ranking score, meet with eligible easement holders, and make recommendations thereon to the PACE Committee.
- (6) After consultation with the County Planner, determine the number of division rights existing on each parcel.
- (7) If applicable coordinate with the local Non-Profit Conservation Organization the preparation and execution of all agreement negotiations, surveys, appraisals, title insurance and searches, baseline documentation, environmental hazard

assessments, attorney and closing fees, easement closing, recording and maintenance of the easement and associated agreements, and all other necessary paperwork and functions required to secure the easement and assure the conditions of the easement and agreement are followed accordingly.

- (8) Apply for funding necessary to purchase conservation easements.
- (9) Administer grant funding received to fund the purchase of conservation easements.
- (10) Provide staff support to the PACE Committee and the Board and serve as a liaison to the Non-Profit Conservation Organization.
- (11) Provide educational materials regarding other land protection programs to the public.
- (12) The Program Administrator will review annual easement monitoring reports prepared by the Non-Profit Conservation Organization. The Non-Profit Conservation Organization will notify the program Administrator of any potential easement violations. If the Non-Profit Conservation Organization does not monitor or enforce easements to the satisfaction of the Program Administrator and PACE Committee, than the County and the Non-Profit Conservation Organization shall try to develop a schedule of compliance and enforcement protocol.
- (13) Periodically review the Program's regulations, guidelines, administrative procedures and promotion and recommend to the PACE Committee any changes needed to maintain the Program's consistency with the *Calumet County Year 2025 Comprehensive Plan* and the *Calumet County Farmland Preservation Plan 2010* or implementation and effectiveness of the Program.

Sec. 36-9. PACE Committee.

- (a) *Establishment.* The PACE Committee is hereby determined to be as follows:
 - (1) The PACE Committee shall be the Planning, Zoning, Land and Water Conservation Committee acting upon the recommendations and assistance of the Director of the County Land & Water Conservation Department; and the UW-Extension Agriculture Agent or his designee.
- (b) *Powers and Duties.* The PACE Committee shall have the powers and duties to:
 - (1) Promote the Program, in cooperation with the Program Administrator, by providing educational materials to the public and conducting informational meetings.
 - (2) Review the applications recommended for the Program as submitted by the by the Program Administrator and make recommendations to the Board on the purchase of conservation easements. To this extent the Committee is advisory to the Board; the Board being responsible for the final decision on which easements to pursue for purchase.

- (3) Authorize the Program Administrator to work with the local Non-Profit Conservation Organization to purchase or accept conservation easements, as approved by the PACE Committee.
- (4) Make recommendations to the Board regarding resolutions necessary to apply for funding and the acceptance of grant funding so conservation easements can be purchased.
- (5) Periodically review the Program's regulations, guidelines, administrative procedures and promotion and make any recommendations to the Board required to update this chapter so as to maintain the Program's consistency with the *Calumet County Year 2025 Comprehensive Plan* and the *Calumet County Farmland Preservation Plan 2010* or their successor documents, or to improve the administration, implementation and effectiveness of the Program.

Sec. 36-10. Non-Profit Conservation Organization.

- (a) *Designation.* The PACE Committee may designate a local Non-Profit Conservation Organization to partner with the County for the successful administration of the PACE Program. The County may enter into an agreement with the local Non-Profit Conservation Organization for the services to be provided to assist the County in administering the PACE Program.
- (b) *Duties and Responsibilities.* The Non-Profit Conservation Organization may be responsible for arranging for and seeing through to completion all agreement negotiations, surveys, appraisals, title insurance and searches, baseline documentation, environmental hazard assessments, attorney and closing fees, easement closing, recording and maintenance of the easement and associated agreements, and all other necessary paperwork and functions required to secure the easement and assure the conditions of the easement and agreement are followed accordingly. The Non-Profit Conservation Organization shall not be responsible for ranking applications for consideration, nor shall they be a party to selecting easements for the County to pursue for purchase.
- (c) *Compensation.* The County shall pay the local Non-Profit Conservation Organization for the transaction costs incurred in (b) above, provided expenses do not exceed \$15,000 for each easement pursued. The Program Administrator shall attempt to secure local, state, federal or private funds to cover the transaction costs to lessen the burden on the County taxpayers. No easement shall be secured unless at least 50% of the transaction costs are paid through other local, state, federal or private funds.

Sec. 36-12. Ranking Criteria.

In order to effectuate the purposes of the PACE Program, parcels for which conservation easement applications have been received shall be ranked according to the criteria and the point values assigned as provided below. Points shall be rounded up to the first decimal.

NOTE: In order to avoid a duplication of application and review, and in order to address the County's specific program purpose, ranking criteria and the points assigned are not identical to the State of Wisconsin PACE ranking criteria.

(a) *Soil Suitability.* Using GIS, the soil types on the property being considered for an easement, and their rating, shall be averaged on a per acre ratio for all land subject of the purchased easement according to the following chart (Chart A). At least 80% of the soils subject the property for which an application is submitted must score at least 42 on the following soil suitability chart to be considered eligible for the Program.

Chart A
Soil Suitability

<u>SYMBOL</u>	<u>SOIL MAP UNIT NAME</u>	<u>POINTS</u>
MIA	MAYVILLE SILT LOAM, 1 TO 3 PERCENT SLOPES	50
ThB	THERESA SILT LOAM, 2 TO 6 PERCENT SLOPES	49
DoB	DODGE SILT LOAM, 2 TO 6 PERCENT SLOPES	48
HrB	HORTONVILLE SILT LOAM, 2 TO 6 PERCENT SLOPES	48
WoB	WAYMOR SILT LOAM, 2 TO 6 PERCENT SLOPES	48
Pe	PELLA SILT LOAM	47
ZuB	ZURICH SILT LOAM, 2 TO 6 PERCENT SLOPES	47
KnB	KEWAUNEE LOAM, 2 TO 6 PERCENT SLOPES	47
NsB	NICHOLS VERY FINE SANDY LOAM, 2 TO 6 PERCENT SLOPES	47
MuA	MUNDELEIN SILT LOAM, 0 TO 3 PERCENT SLOPES	46
BtB	BRIGGSVILLE SILT LOAM, 2 TO 6 PERCENT SLOPES	45
HmB	HOCHHEIM LOAM, 2 TO 6 PERCENT SLOPES	45
LmA	LAMARTINE SILT LOAM, 0 TO 3 PERCENT SLOPES	45
WpB	WHALAN SILT LOAM, 2 TO 6 PERCENT SLOPES	45
MsA	MOSEL LOAM, 0 TO 3 PERCENT SLOPES	45
KrB	KOLBERG LOAM, 2 TO 6 PERCENT SLOPES	44
SyA	SYMCO SILT LOAM, 0 TO 3 PERCENT SLOPES	44
KpB	KEWAUNEE-BOYER-NICHOLS COMPLEX, 2 TO 6 PERCENT SLOPES	43
MbA	MANAWA SILT LOAM, 0 TO 3 PERCENT SLOPES	43
BcA	BELLEVUE SILT LOAM, 0 TO 3 PERCENT SLOPES	43
Bu	BROOKSTON SILT LOAM	42
McB	MANAWA-KEWAUNEE-POYGAN COMPLEX, 0 TO 4 PERCENT SLOPES	42
Po	POYGAN SILT CLAY LOAM	42
ShA	SHIOCTON VERY FINE SANDY LOAM, 0 TO 3 PERCENT SLOPES	42
BrB	BOYER SANDY LOAM, 2 TO 6 PERCENT SLOPES	38
BsB	BOYER SANDY LOAM, LOAMY SUBSTRATUM, 2 TO 6 PERCENT SLOPES	38
TuB	TUSTIN LOAMY FINE SAND, 2 TO 6 PERCENT SLOPES	38
WvB	WYOCENA VARIANT SANDY LOAM, 2 TO 6 PERCENT SLOPES	37
Ke	KEOWNS VERY FINE SANDY LOAM	35
WaA	WASEPI SANDY LOAM, 0 TO 3 PERCENT SLOPES	35
HrC2	HORTONVILLE SILT LOAM, 6 TO 12 PERCENT SLOPES, ERODED	35
NsC2	NICHOLS VERY FINE SANDY LOAM, 6 TO 12 PERCENT SLOPES, ERODED	33

KnC2	KEWAUNEE LOAM, 6 TO 12 PERCENT SLOPES, ERODED	32
We	WAUSEON SANDY LOAM	32
CoA	COSAD LOAMY FINE SAND, 0 TO 3 PERCENT SLOPES	30
HmC2	HOCHHEIM LOAM, 6 TO 12 PERCENT SLOPES, ERODED	30
HrD2	HORTONVILLE SILT LOAM, 12 TO 20 PERCENT SLOPES, ERODED	29
KrC2	KOLBERG LOAM, 6 TO 12 PERCENT SLOPES, ERODED	29
CnB	CHANNAHON LOAM, 2 TO 6 PERCENT SLOPES	28
TeA	TEDROW LOAMY FINE SAND, 0 TO 3 PERCENT SLOPES	28
BrC2	BOYER SANDY LOAM, 6 TO 12 PERCENT SLOPES, ERODED	27
KnD2	KEWAUNEE LOAM, 12 TO 20 PERCENT SLOPES, ERODED	27
HmD2	HOCHHEIM LOAM, 12 TO 20 PERCENT SLOPES, ERODED	25
KpD	KEWAUNEE-BOYER-NICHOLS COMPLEX, 12 TO 20 PERCENT SLOPES	25
LuB	LUTZKE SANDY LOAM, 2 TO 6 PERCENT SLOPES	24
CnC	CHANNAHON LOAM, 6 TO 12 PERCENT SLOPES	24
Gb	GRANBY FINE SANDY LOAM	24
OaB	OAKVILLE LOAMY FINE SAND, 2 TO 6 PERCENT SLOPES	23
Fu	FLUVAQUENTS	20
LuC2	LUTZKE SANDY LOAM, 6 TO 12 PERCENT SLOPES, ERODED	20
As	AQUENTS, SLOPING	16
Ac	ADRIAN MUCK	12
Hu	HOUGHTON MUCK	12
KnE	KEWAUNEE LOAM, 20 TO 30 PERCENT SLOPES	12
Pa	PALMS MUCK	12
Wt	WILLETTE MUCK	12
LuD	LUTZKE SANDY LOAM, 12 TO 20 PERCENT SLOPES	10
Ud	UDORTHENTS	2
M-W	MISCELLANEOUS WATER	0
Pg	PITS, GRAVEL	0
Ph	PITS, QUARRIES	0
W	WATER	0

(b) *Threat of Conversion.* Distance to incorporated boundaries and sewer service planning areas shall be determined from the boundaries in place at time of adoption of this chapter.

- (1) If land is directly adjacent to a sewer service planning area: 5 pts.
- (2) Distance to an incorporated boundary:
 - A. 0-.5 miles: 0 pts.
 - B. .51-1.1 miles: 5 pts.
 - C. 1.11-3 miles: 10 pts.
 - D. 3.1 miles and beyond: 5 pts.

(c) *Natural Resources and Other Protected Land.* Lands contiguous to other protected lands shall be assigned the rank specified below. Adjacency to PACE protected lands shall be in five (5) year increments to encourage new blocks of PACE protected land.

(1) Lands participating in the PACE Program:

- A. Within five (5) years of adoption of this chapter: 0 pts.
- B. After five (5) years of adoption of this chapter, but less than ten (10) years of adoption of this chapter: 20 pts.
- C. Following the first ten years of the PACE Program points shall only be assigned on alternating five year increments.

(2) Publicly owned and protected land: 5 pts.

(3) Land on which a tax incentive is received (excluding those lands participating in the PACE Program): 3 pts.

(d) *Stewardship and Compliance.* Points assigned for stewardship and compliance are subjective and determined by the applicant, with verification by the County Land & Water Conservation Department.

(1) Has the owner demonstrated good stewardship practices on the land subject of the conservation easement:

- A. Yes: 5 pts.
- B. No: 0 pts.

(2) On the land subject of the conservation easement are there known violations of the Code administered by the County Land & Water Conservation Department and the County Land & Water Conservation Department:

- A. Yes: 0 pts.
- B. No: 5 pts.

(e) *Historical Significance.* To determine row-crop history, points shall be assigned as identified below with verification by the United States Department of Agriculture or an affiliated agency. For purposes of determining row crop history, 'history' shall be defined as the preceding five (5) year period prior to the calendar year of application for an easement. To determine multi-generational family history, verification shall be per the records found in the County Register of Deeds Office.

(1) Property has a history of growing non-row crops:

- A. If growing row crops for past five (5) years: 0 pts.
- B. If not growing row crops for past five (5) years: 5 pts.

(2) Land on which the easement is sought is part of a multi-generational farm:

- A. Yes: 5 pts.
- B. No: 0 pts.

(f) *Fund Leveraging.* Provided the applicant is willing to negotiate a discounted easement price, points shall be assigned per the following:

(1) For every 3% discount off the appraised value of the anticipated purchase price of the easement, 1 point shall be assigned, for a maximum value of 15 pts.

Sec. 36-13. Easement Terms and Conditions.

The Program Administrator, in cooperation with the local Non-Profit Conservation Organization, shall negotiate a purchase price with the applicant. The purchase price shall be based on a professional appraisal of the Fair Market Value of the easement prepared by a Certified General Appraiser, as defined in §458.01(8), Wis. Stat. The purchase price shall be reviewed by the Committee and referred to the Board for approval prior to finalizing a draft easement.

After the Program Administrator and the local Non-Profit Conservation Organization have negotiated a purchase price with the qualifying applicant, and the price approved by the Board, and after all necessary paperwork has been completed and a draft easement document prepared, the draft easement document shall be referred to the County Corporation Counsel to guarantee the easement document is in a format acceptable to the County. If the draft easement document is satisfactory to the Corporation Counsel, it shall be drafted in final format, and then filed with the County Register of Deed's Office.

The Program Administrator shall review the draft easement document for compliance with any County policy on land division relevant to the PACE Program, and for compliance with the following:

(a) *Restriction on Division.* All lots created shall be in accordance with the size and density provisions of the governing Zoning Code, if applicable, and the *Base Development Yield and Growth Management* regulations stated in *Chapter 62, Land Division, Article III* of the *Calumet County Code of Ordinances*.

(b) *Limitation on Development.* The land on which the easement is to be secured shall not be developed at time of the filing of the easement document nor into perpetuity of the easement with any use or structure not allowed in a certified Farmland Preservation Zoning District.

NOTE: In the event the farm home is not intended to be utilized as an agricultural related residence in the future, it is recommended the farm home be excluded from the easement so as to avoid a potential violation of the easement.

(c) *Limitation on Land Use.* Land use shall be restricted solely to those uses allowed in a certified Farmland Preservation Zoning District.

(d) *Best Management Practices.* The easement shall specify that the property be used for agricultural purposes; other uses allowed through programs administered through the USDA or the County Land & Water Conservation Department; or other uses allowed in a farmland preservation area as specified in Ch. 91, Wis. Stats. The easement shall also specify such activities be conducted pursuant to a conservation plan, prepared cooperatively with the County Land & Water Conservation Department and approved by the County Planning, Zoning, Land and Water Committee, which adequately addresses soil erosion control, surface water and groundwater protection, pest management, nutrient management, and habitat protection. The

conservation plan shall dictate best management practices to be implemented and maintained to accomplish soil erosion control, surface water and groundwater protection, pest management, nutrient management, and habitat protection. The plan shall be updated periodically (as determined by the County Land & Water Conservation Department or landowner request), and at any time that the basic type of agriculture operation on the property changes (as determined by the County Land & Water Conservation Department) or upon any change of ownership.

(e) *Protection of Groundwater.* The easement shall specifically prohibit any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface waters or groundwater. This easement restriction is not intended to prohibit agricultural uses of the property conducted in accordance with a conservation plan, prepared cooperatively with the County Land & Water Conservation Department and approved by the Planning, Zoning, Land and Water Conservation Committee.

(f) *No Buy Back Option.* The easement shall specify that the owner shall not have the option to re-acquire any property rights relinquished under the conservation easement.

(g) *Other Restrictions.* The parcel on which the easement is secured shall also be subject to standard restrictions pertaining to, but not limited to:

- (1) The accumulation of trash and junk;
- (2) The display of billboards, signs and advertisements;
- (3) The management of forest resources;
- (4) Grading, blasting or earth removal;
- (5) The conduct of industrial or commercial activities on the parcel; and
- (6) Monitoring of the easement.

(h) *Easement Holder.* The County and/or the local Non-Profit Conservation Organization shall be the easement holder of each easement. If the easement is purchased utilizing grant funds, those grantors may also be listed as easement holders.

Sec. 36-14. Application and Evaluation Procedure.

Each application for a conservation easement shall be processed as follows:

(a) *Application Materials.* The Program Administrator shall provide to each interested applicant, at a minimum, a standard application form, a sample easement form, and information about the PACE Program.

(b) *Application Form.* Each application shall be completed by the applicant and submitted on a standard form prepared by the Program Administrator. The application form shall require, at a minimum, that the owner: (i) provide the name of all owners of the parcel, (ii) the address of each owner, (iii) the acreage of the parcel, (iv) any known survey of the property, (v) the County parcel map and location identification number, (vi) the zoning designation of the parcel, (vii) permission for the Program Administrator or his designee, a representative from the Planning, Zoning, Land and Water Conservation Committee, and the local

Non-Profit Conservation Organization to enter the property after reasonable notice to the owner to evaluate the parcel and for an independent appraiser to appraise the property. The application form shall also include a space for an owner to indicate that he volunteers to have the parcel be subject to greater restrictions than those contained in the standard sample easement form. Application forms must be signed by all land owners with an interest in the property for which the easement is sought. Failure to provide any of the information in this section shall be cause to reject the application for consideration for the PACE Program.

(c) *Additional Application Information.* The Program Administrator may require an owner to provide additional information deemed necessary to determine: (i) whether the proposed easement is eligible for purchase; and (ii) the purchase price of the easement.

(d) *Submittal of Application.* Applications shall be submitted to the office of the Program Administrator. An application may be submitted at any time. However, applications received after September 1 may be evaluated in the following year. Only those applications meeting the standards of Sec. 36-5, *Applicability*, shall be processed.

(e) *Evaluation by Program Administrator.* The Program Administrator shall evaluate each application received and determine within fifteen (15) days whether the application meets the standards of Sec. 36-5, *Applicability*, and whether it is complete. If the application is incomplete, the Program Administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the Program Administrator shall determine whether the parcel is eligible for the program based on Sec. 36-12(a) and Chart A, *Soil Suitability*. If the application is eligible, the Program Administrator shall coordinate with the Director of the Land & Water Conservation Department and the UW Extension Agricultural Agent, or his designee, to determine the number of points to be attributed to the parcel by applying the ranking criteria set forth in this chapter, with the parcel scoring the most points being the highest ranked and descending there from, and submit the list of ranked parcels, along with a recommendation on which easements to pursue for purchase, to the PACE Committee.

(f) *Evaluation and Ranking by PACE Committee.* The PACE Committee shall review the list of parcels which were ranked for pursuing an easement purchase by the Program Administrator. The Committee shall then rank the parcels in the order of their priority recommended for easement purchase. The Committee shall forward the list to the Board for direction on which parcels to begin price negotiations. After a decision by the Board, the Program Administrator shall work with the local Non-Profit Conservation Organization to begin the appraisal process and negotiate a purchase price for the selected parcel(s).

(h) *Appraisal of Conservation Easement Value.* Each conservation easement identified for intended purchase by the Board shall be appraised by a Certified General Appraiser, as defined in Wis. Stat., Sec. 458.01(8), and commissioned by the local Non-Profit Conservation Organization. Any appraisal commissioned by the seller of an easement shall not be considered. The Non-Profit Conservation Organization shall notify the appraiser that an appraisal is needed and work independent of the County to secure a fair appraisal. Each completed appraisal shall be submitted to the Program Administrator and the owner. The Program Administrator shall report to the PACE Committee, who in turn shall report to the Board, the findings of the appraisal, any negotiated terms, and, the final purchase price of the easement. If the State of Wisconsin Department of Agriculture, Trade and Consumer Protection has a list of acceptable appraisers it deems qualified to conduct easement appraisals, then the Non-Profit Conservation

Organization shall only utilize appraisers on that list. The Board shall decide which negotiated easements to purchase and pursue funding.

(i) *Requirements and Deadlines.* Requirements and deadlines shall be as specified by the Program Administrator. Any requirement or deadline set forth may be waived by the PACE Committee if, for good cause, it is shown that exigent circumstances exist to warrant consideration of an otherwise untimely application, or it is shown that the requirements unreasonably restrict the purchase of an easement.

(j) *Reapplication.* An owner whose parcel is not selected for purchase of a conservation easement may reapply in any future year.

Sec. 36-15. Appraisal Review.

It shall be the responsibility of the local Non-Profit Conservation Organization to initiate all real estate appraisals relative to the PACE Program. The Non-Profit Conservation Organization shall also be responsible for all paperwork associated with the appraisal and ensuring compensation to the appraiser. It is understood the appraisal will be paid or reimbursed by the County, either directly to the appraiser or to the Non-Profit Conservation Organization. The Non-Profit Conservation Organization shall coordinate with the Program Administrator on the findings of the appraisal, who in turn shall forward such findings to the PACE Committee. In some circumstances a second appraisal may be required, dependant on the funding source requirements. In such cases, the Non-Profit Conservation Organization shall pursue the second appraisal and include all associated expenses in its bill of transaction costs. Independent appraisals requested by the land owner shall be paid for by the land owner and shall have no relevance to the appraisals procured by the Non-Profit Conservation Organization nor the easement price.

Sec. 36-16. Purchase of Conservation Easement.

Each conservation easement shall be purchased as follows:

(a) *Identification of Initial Pool.* From the list of eligible applications received by the Program Administrator, and recommended for consideration to the PACE Committee, the Committee shall designate the initial pool of parcels for potential conservation easements to be purchased. The size of the pool shall be based upon the anticipated funds available for easement purchases in the current fiscal year, if local funding is available, and the anticipated purchase price of each conservation easement.

(b) *Determining Purchase Price.* The purchase price of a conservation easement shall be determined by the local Non-Profit Conservation Organization in coordination with the Program Administrator. The Program Administrator shall approve no purchase prior to a recommendation by the PACE Committee, and final approval of the Board. The appraiser shall determine the value of the easement using guidelines established by DATCP specifically for the PACE Program.

(c) *Offer to Purchase.* On behalf of the Board, the Program Administrator may invite the Non-Profit Conservation Organization to make an Offer to Purchase an easement for the appraised value of the easement, and/or to donate to the County any portion of the fair market value of the conservation easement, subject to the terms and conditions of a proposed easement. The purchase price shall not be subject to negotiation, unless previously agreed to be

negotiated. Unless negotiated, the maximum purchase price shall be the appraised value of the easement. The invitation shall be in writing and shall include the purchase price, the proposed easement, and the date by which a written Offer to Sell must be received by the Program Administrator in order for it to be considered.

(d) *Offer to Sell.* Each owner who desires to sell or donate, in whole or in part, a conservation easement shall submit a written offer that must be received by the Program Administrator by the date contained in the invitation to Offer to Sell. The offer should include a statement substantially stating the following: “(The owner) offers to sell or donate a conservation easement to the County of Calumet, Wisconsin for the sum of (purchase price), subject to the terms and conditions set forth in the proposed easement enclosed with the invitation to Offer to Sell.” Nothing in this chapter shall compel an owner to submit an Offer to Sell.

(e) *Acceptance.* A written Offer to Sell a conservation easement shall be accepted by the Program Administrator and reviewed by the PACE Committee who in turn shall determine whether the purchase complies with the direction of the Board to purchase the easement. An offer shall not be accepted by the Committee if the proposed easement would be inconsistent with the Board’s direction, policies and goals of the comprehensive plan or farmland preservation plan in existence at the time the offer is received. Nothing in this chapter shall obligate the Committee to accept an Offer to Sell a conservation easement.

(f) *File Transfer.* If the Offer to Sell the easement is accepted by the PACE Committee, the Program Administrator shall turn the file over to the local Non-Profit Conservation Organization to complete the sale (e.g. surveys, title insurance, closing, etc.). Prior to the recording of the easement, the easement shall be reviewed by the County as specified earlier in this chapter.

(g) *Easement Established.* A conservation easement shall be established when the owner(s) and the County Administrator have each signed the easement. The easement shall be recorded in the office of the County Register of Deeds Office. A single conservation easement may be established for more than one parcel under the same ownership.

(h) *Maintenance.* Per an agreement entered into between the County and the local Non-Profit Conservation Organization, it shall be the responsibility of the Non-Profit Conservation Organization to maintain the easement and ensure the conditions of the easement are followed by the land owner.

(i) *Violations.* Should a land owner violate the terms of the recorded easement, he may be subject to a penalty and possible injunction. Any person, firm, association or corporation or representative agent who fails to comply with the provisions of the easement recorded on their deed shall, upon conviction thereof, forfeit, not less than \$10 nor more than \$500 and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and cost shall be imprisoned until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate violation. Compliance with this chapter may be enforced by an injunction at the suit of Calumet County.

(j) *Voided Offers.* If an owner invited to submit an offer elects not to do so, or if his Offer to Sell is not accepted by the PACE Committee, then the Program Administrator, on behalf of

the Committee, shall send an invitation to Offer to Sell to the owner of the next highest ranked parcel remaining on the list of parcels identified for easement purchase.

(k) *Costs.* If the PACE Committee accepts an Offer to Sell, the County shall pay the local Non-Profit Conservation Organization all costs associated with the closing of the sale and maintenance of the easement thereafter, including environmental site assessments, surveys, title insurance expenses, recording costs, and other charges associated with closing. Provided, however, the total expenses incurred and to be paid to the local Non-Profit Conservation Organization do not exceed \$15,000 in total. The County shall not pay fees incurred for independent appraisals, legal, financial, or other advice. To minimize the fiscal impact on the tax payers a minimum of 50% of the costs shall be paid for through other local, state, federal funds, or private funds.

(l) *Reapplication.* An owner who fails to submit an Offer to Sell or whose Offer to Sell was not accepted may reapply in any future year. The re-submitted application shall then be processed as a new application.

Sec. 36-17. Program Funding.

With the exception of costs incurred or commissioned by the County or Non-Profit Conservation Organization to secure an easement, no easement shall be purchased unless the purchase is entirely funded by other local, state, federal, or private funds, or, the amount not capable of being funded in such manner is donated by the seller. All attempts shall be made to have 100% of the purchase funded by other local, state, federal, or private funds, or, donated by the seller. The PACE Committee reserves the right to refuse any offer to purchase an easement based on lack of funding.

Sec. 36-18. Program Non-Exclusivity.

The PACE Program is a non-exclusive means by which the County may purchase conservation easements or manage land use and development, or by which landowners may establish conservation easements and other self-imposed limitations on land use or development. This chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes.

(Ordinance 2010-23, March 15, 2011)

RESERVED

Chapter 38

LAW ENFORCEMENT*

* **Cross References:** Administration, ch. 2; Emergency Services, ch. 14; Offenses and Miscellaneous Provisions, ch. 42; Traffic and Vehicles, ch. 70.

Sec. 38-1. Setting Charges for Incarcerated Persons.

Sec. 38-2. Sheriff Fees in Real Estate Sales.

Sec. 38-3. Abandoned or Unclaimed Property.

Sec. 38-1. Setting Charges for Incarcerated Persons.

(a) *Maintenance and board for county jail prisoners.*

(1) *Authority.* This section is enacted pursuant to authority given to the county under Wis. Stats. §§302.388, 302.372 and 302.38(2), and 303.08(4).

(2) *Intent.* It is the intent of this section that persons incarcerated in the county jail shall, to the extent authorized by law, be responsible for paying for the cost of their incarceration. This section applies to any expenses incurred by the County in relation to the crime for which a person was sentenced to a county jail, or which the person was placed on probation and confined to jail.

(3) *Cost of maintenance.*

a. **Fees.** The actual cost of maintaining a prisoner shall be reviewed annually and set by the Protection of Persons and Property Committee. Said fees in this section shall be available for review in the Sheriff's Office.

b. **Medical Expenses:** For medical expenses incurred by the County, the County may seek reimbursement from the incarcerated person for the actual costs of medical expenses.

(b) *No duplication of expenses.* The County shall not recover the same expenses twice.

(c) *Reimbursement form.* Each person confined to the County Jail shall be required to complete a financial disclosure form provided by the Sheriff. This form shall provide for obtaining the social security number, age and marital status of a prisoner, the number and ages of children of a prisoner, the income of a prisoner, the type and value of real estate owned by a prisoner, the type and value of personal property of a prisoner, a prisoner's cash and financial institution accounts, the types of values of a prisoner's investments, any pension plans and annuities of a prisoner, and any other personal significant cash value owned by a prisoner. This form shall be used by the Sheriff, the District Attorney, and the Corporation Counsel to make reimbursement and to investigate the financial status of the prisoner. The information on the completed form is not a public record except that the county shall provide the information from the form in response to a request for information under Wis. Stats. §49.22(2m) made by the State Department of Workforce Development or under Wis. Stats. §59.53(5) made by the Child Support Agency.

(d) *Institutional accounts.* The Sheriff may charge a prisoner for the expenses set forth in this section, while he is a prisoner; plus the costs to investigate the financial status of the prisoner and

the expenses of collection.

- (1) If the Sheriff maintains an institutional account for a prisoner's use for payment of items from the canteen, vending, or similar services, the Sheriff may make deductions from the account to pay for the expenses set forth in this section. If the prisoner has a balance due for expenses under this section, from prior incarcerations, any institutional account created as part of a subsequent incarceration may be used to recover the sums due from the prior incarceration.
- (2) If the Sheriff maintains an account of a Huber prisoner pursuant to Wis. Stats. §303.08(3), the Sheriff may make deductions from the account to pay for the expenses set forth in this section, subject to the limitations of Wis. Stats. §303.08(5).

(e) *Prepayment.* Because participation in a home detention program is discretionary with the Sheriff, the Sheriff may require prepayment of the expenses set forth in this section as a requirement for participation in the program.

(f) *Wages of a prisoner.* The wages, salary, and unemployment training benefits received by prisoners shall be divided by the Sheriff for the following purposes, in the order stated:

- (1) Necessary travel expense to and from work;
- (2) Court-ordered support of the prisoner's dependents, if any;
- (3) Expenses owed to the County under this section;
- (4) Payment, either in full or ratably, of the prisoner's obligations acknowledged by the prisoner in writing or which have been reduced to judgment;
- (5) The balance, if any, to the prisoner upon the prisoner's discharge.

(g) *Prisoner cooperation.* A prisoner shall cooperate with the Sheriff in seeking reimbursement for expenses incurred for that prisoner. A prisoner who intentionally refuses to cooperate may not earn good-time credit under Wis. Stats. §302.43 or diminution of sentence under Wis. Stats. §303.19(3).

(h) *Action for reimbursement.* Within 12 months after the release of a prisoner from jail, the county may commence an action in Circuit Court to recover the expenses under this section, plus the costs to investigate the financial status of the prisoner and the expenses of collection not otherwise recovered or be barred.

(i) *Proceeds.* Any sums collected under this section shall be deposited with the County Treasurer, except to the extent that the portion of the sums collected for meals for Huber prisoners are subject to sales tax which shall be assessed and forwarded to the Department of Revenue.

(Ord. No. 2001-18, §2--10, 2-19-2002, Ord. No. 2005-08, §1(a)(2), 7-19-05; Ord. No. 2005-12, §1(a)(3)f, 9-27-05, Ord. No. 2010-14, §(a)(3)a., 11-1-2010. Ord. No. 2019-07, §1(a)(d), 12-17-19.)

Sec. 38-2. Sheriff Fees in Real Estate Sales.

The County Sheriff shall collect fees for real estate sales, per Wis. Stats. §814.705(2), unless a higher fee under Wis. Stats. §814.705(1)(a) is applicable. Such fee shall be set at \$150.00. (Ord. No. 1997-18, §1, 2-17-1998)

Sec. 38-3. Abandoned or Unclaimed Property.

(a) All personal property which has been abandoned or remains unclaimed for a period of 30 days, including bicycles or parts thereof, may be disposed of by public sale, conversion to public use, donation to charity or by junking or salvage. The method of disposal shall be at the sole option of the Sheriff and as may be in the best interest of the County. If the owner of the property is known, the 30-day period shall commence on the date of mailing a notice by registered mail to the owner's last known address. If ownership is unknown, the 30 days shall commence on the date the property is taken into possession by the Sheriff/Traffic Department.

(b) Any property remaining unclaimed beyond the 30 days shall be subject to a per day storage fee as set by the Board from time to time, commencing with the expiration of the 30-day period and continuing until the property is reclaimed or disposed of. Such storage fee shall be assessed by the Sheriff.

(Ord. No. 1988-10, §§2, 3, 9-27-1988)

Chapter 39
MEDICAL EXAMINER

Sec. 39-1. Disposition of Unclaimed Bodies.

Sec. 39-1. Disposition of Unclaimed Bodies.

- (a) *Authority.* This Ordinance is created pursuant to the authority provided under §§45.84, 157.02 and 979.09, Wis. Stats. to provide for the appropriate disposition of an unclaimed or unknown deceased individual's body after a due diligent effort to locate family members of the deceased.
- (b) *Veterans.* If the deceased is a veteran, the Veteran's Service Officer shall be contacted and shall be responsible for assisting the Calumet County Medical Examiner with proper arrangements and payment thereof. The Veteran's Service Officer will coordinate with the Calumet County Health and Human Services Department to determine the Medical Assistance eligibility of the deceased. Should the deceased individual be eligible for the Wisconsin Funeral and Cemetery Aids Program, this program shall be used to offset final disposition costs of the deceased individual's unclaimed body. If any further costs for final disposition are incurred, they will be defrayed in accordance with Wis Stats §§45.84.
- (c) *Method of Disposition.* The Calumet County Medical Examiner shall properly dispose of an unclaimed body.
- (1) *By Donation.* The Calumet County Medical Examiner, in his discretion, may notify the Medical College of Wisconsin, Inc. or the University of Wisconsin of an unknown or unclaimed deceased person and offer such for medical research. If the Medical College or University of Wisconsin desires to take possession of the deceased, the body shall be properly encased and transported to the facility. The facility shall pay the cost of the transportation.
- (2) *By Cremation.* If the body of the deceased is not claimed for medical research or is otherwise unsuitable for medical research, the Calumet County Medical Examiner, upon his written authorization, shall cause the body of an unknown or unclaimed deceased person to be cremated. Cremation of an unknown or unclaimed body shall occur no earlier than seven (7) days subsequent to the pronounced date of death of the deceased person, unless a public health reason requires sooner disposal.
- (a) The Calumet County Medical Examiner shall store the cremated remains for 24 months from the date of cremation. 60 days prior to the end of the 24 months, the Medical Examiner shall notify any known next-of-kin that the cremated remains will be lawfully disposed of unless claimed and the provisions of 39-1 (d)(2) below are met.
- (b) The Calumet County Medical Examiner shall be responsible for the final manner of disposition of the cremated remains, either by placing the cremated remains in a grave, niche, crypt, or by any other lawful manner so long as the remains are reduced to a particle size of one-eighth inch or less.
- (d) *Family members.* Family members of the deceased individual who fail to claim the deceased individual's body shall not have any input into the decision regarding the means of disposition of the unclaimed body, including the final manner of disposition chosen by the Medical Examiner.

(1) Calumet County shall have no obligation to pay for visitation, religious observances or other funeral arrangements relating to any deceased individual whose body remains unclaimed.

(2) Family members may claim the decedent's cremated remains prior to final disposition under paragraph (c)(2)(a) above, upon reimbursement to Calumet County of all costs expended to care for, store, prepare and cremate the deceased individual's body.

(e) *Costs:*

(1) The Calumet County Medical Examiner shall request the assistance of the Calumet County Health and Human Services Department, or other applicable county agency or department, to determine the Medical Assistance eligibility of the deceased. Should the deceased individual be eligible for the Wisconsin Funeral and Cemetery Aids Program this program shall be used to offset cremation costs of the deceased individual's unclaimed body.

(2) The County Medical Examiner shall certify all the charges and expenses incurred with the cremation. The charges and expenses shall be audited by the County Board and paid out of the County Treasury.

(3) Nothing contained within this Ordinance shall prevent the Calumet County Medical Examiner or Calumet County from filing a claim against the estate of the deceased, or using other legal means, to recover the costs of disposition of the deceased individual should it appear that assets are available within the estate of the deceased individual or otherwise to cover said disposition costs.

(Ord. 2014-08, December 16, 2014.)

Chapters 40--41

RESERVED

Chapter 42

OFFENSES AND MISCELLANEOUS PROVISIONS*

* **Cross References:** Law Enforcement, ch. 38; Traffic and Vehicles, ch. 70.

Sec. 42-1. Penalty for Violation of Chapter.

Sec. 42-2. Offenses Against State Law Subject to Forfeiture.

Sec. 42-3. Public Peace and Good Order.

Sec. 42-4. Truancy and School Dropouts.

Sec. 42-5. Curfew.

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Sec. 42-7. Firearms Restricted in Certain County Buildings.

Sec. 42-8. Registration of Entertainers.

Sec. 42-1. Penalty for Violation of Chapter.

Except as otherwise provided, any person who shall violate any of the provisions of this chapter shall be subject to sections 1-7 and 1-8 of this Code.

Sec. 42-2. Offenses Against State Law Subject to Forfeiture.

(a) The following state statutes are adopted and incorporated as if fully set forth in this section by reference, as amended from time to time.

(1) Bodily security.

Wis. Stats. §940.19	Battery
Wis. Stats. §947.013(1m)a and b	Harassment

(2) Public health and safety.

Wis. Stats. §101.123	Smoking Prohibited
Wis. Stats. §254.76	Careless smoking
Wis. Stats. §254.92	Possession, purchase of tobacco by child
Wis. Stats. §134.66	Sale of tobacco products to child
Wis. Stats. §941.10	Negligent handling of burning materials
Wis. Stats. §941.13	False fire alarms
Wis. Stats. §941.20	Shooting within 100 yards of dwelling
Wis. Stats. §941.23	Carrying concealed weapons
Wis. Stats. §941.237	Carrying handgun where alcohol is sold
Wis. Stats. §941.24	Possession of switchblade
Wis. Stats. §941.299	Use laser pointer at law enforcement officer
Wis. Stats. §941.2965	Restrictions on use of facsimile firearms
Wis. Stats. §941.295	Possession of electric weapon

(3) Crimes against property.

Wis. Stats. §943.01	Damage to property (vandalism)
Wis. Stats. §943.13	Trespass to land
Wis. Stats. §943.14	Criminal trespass to dwelling
Wis. Stats. §943.15	Entry onto construction site
Wis. Stats. §943.20	Petty theft
Wis. Stats. §943.21	Fraud on a hotel or restaurant keeper
Wis. Stats. §943.24	Issuing worthless checks
Wis. Stats. §943.34	Receiving stolen property
Wis. Stats. §943.37	Alteration of property identification marks
Wis. Stats. §943.46	Theft of cable services
Wis. Stats. §943.47	Theft of satellite programming
Wis. Stats. §943.50	Retail theft – shoplifting
Wis. Stats. §943.55	Theft of shopping cart
Wis. Stats. §943.61	Theft of library materials
Wis. Stats. §943.70	Computer crimes
Wis. Stats. §943.017	Graffiti
Wis. Stats. §943.11	Entry into Locked Vehicle
Wis. Stats. §943.215	Absconding without paying rent
Wis. Stats. §943.75	Unauthorized release of animals

(4) Sex crimes.

Wis. Stats. §944.15	Public Fornication
Wis. Stats. §944.17	Sexual gratification
Wis. Stats. §944.20	Lewd and lascivious behavior

(5) Interference with law enforcement.

Wis. Stats. §941.37	Obstruct rescue or emergency personnel
Wis. Stats. §946.41	Obstructing officers
Wis. Stats. §946.70	Impersonating police officer

(6) Public peace.

Wis. Stats. §167.10	Fireworks, sale, possession, discharge
Wis. Stats. §945.03	Commercial Gambling
Wis. Stats. §945.02	Gambling
Wis. Stats. §947.01	Disorderly conduct
Wis. Stats. §947.012	Unlawful use of telephone
Wis. Stats. §947.0125	Unlawful use of computerized comm. System
Wis. Stats. §947.04	Drinking in common carriers.
Wis. Stats. §947.06	Unlawful assemblies and their suppression
Wis. Stats. §948.51	Hazing

(7) Alcohol.

Wis. Stats. Chapter 125	
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(8) Controlled substances.

Wis. Stats. §941.315	Possession with intent to inhale/nitrous oxide
Wis. Stats. §961.41	Possession of marijuana (25 gms or less, first violation)
Wis. Stats. §961.573	Possession of drug paraphernalia
Wis. Stats. §961.574	Manufacture or delivery of drug paraphernalia
Wis. Stats. §961.575	Delivery of drug paraphernalia

(b) For purposes of charging and prosecution of any forfeiture action under this section, the county hereby adopts Wis. Stats. §939.05, party to a crime, and Wis. Stats. §939.32, attempt.

Sec. 42-3. Public Peace and Good Order.

Enumeration of offenses. The following shall be prohibited or restricted, pursuant to Wis. Stats. §59.54(6):

- (1) *Throwing or shooting of stones and other missiles.* No person shall throw or shoot any object, stone, snowball, or other missile of projection, by hand or any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place.
- (2) *Disorderly conduct with an automobile.* No person shall cause any loud or discordant, unnecessary noises or vibrations of any kind, including tire squealing or horn blowing.
- (3) *Interference with fire alarm/fire extinguishing systems.* No person shall intentionally interfere with the proper functioning of a fire alarm system, nor shall anyone interfere with, tamper with, or remove without authorization any fire extinguisher, fire hose or any other fire equipment.
- (4) *Interference with fire hydrants.* No person shall intentionally interfere with the accessibility to a fire hydrant, by blocking it, or by piling or dumping materials near it, without first obtaining permission from the appropriate municipal authority.

Sec. 42-4. Truancy and School Dropouts.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dropout means as given in Wis. Stats. §118.153(1)(b).

Habitual truant means as given in Wis. Stats. §118.16(1)(a).

Operating privilege means as given in Wis. Stats. §340.01(40).

Truant means a pupil who is absent from school without an acceptable excuse under Wis. Stats. §§118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

(b) *Truancy generally; disposition.* No person under 18 years of age shall become truant. Dispositions available to the court are as follows:

- (1) An order for the person to attend school.
- (2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. §938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- (3) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in Wis. Stats. §938.342(1d)(c).

(c) *Habitual truancy; disposition.* No person under 18 years of age shall become a habitual truant. The following dispositions are available to the Court:

- (1) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The Court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.
- (2) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. §938.34(5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. The county Health and Human Services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this subsection acting in good faith has immunity from any civil liability in excess of \$25,000.00 for any act or omission by or impacting on that person.
- (3) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

- (4) An order for the person to attend an educational program as described in Wis. Stats. §938.34(7d).
 - (5) An order for the Department of Workforce Development to revoke, under Wis. Stats. §103.72, a permit under Wis. Stats. §103.70 authorizing the employment of the person.
 - (6) An order for the person to be placed in a teen court program as described in Wis. Stats. §938.342(1g)(f).
 - (7) An order for the person to attend school.
 - (8) A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. §938.37. All or part of the forfeiture, plus costs, may be assessed against the person, the parents or guardian of the person, or both.
 - (9) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions on going to or remaining on specified premises and restrictions on associating with other children or adults.
 - (10) An order placing the person under formal or informal supervision, as described in Wis. Stats. §938.34(2), for up to one year.
 - (11) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
 - (12) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in Wis. Stats. §938.342(1g)(k).
- (d) *Suspension of vehicle operating privilege.*
- (1) A Court may suspend the vehicle operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The Court may suspend the person's vehicle operating privilege until the person reaches the age of 18. The Court shall immediately take possession of any suspended license and forward it to the department of transportation, together with a notice stating the reason for and the duration of the suspension.
 - (2) A Court may order a school district to provide to the Court a list of all persons who are known to the school district to be dropouts and who reside within the County. Upon request, the Department of Transportation shall assist the court to determine which dropouts have vehicle operating privileges.
- (e) *Enforcement of section provisions.* This section may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under subsection (b), (c) or (d) of this section.

(f) *Underage persons.* A person who is under 17 years of age on the date of disposition is subject to Wis. Stats. §938.342.
(Ord. No. 1999-5, 7-20-1999)

Sec. 42-5. Curfew.

(a) *Prohibited acts.* No child 17 years of age or under shall loiter, idle or remain and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain in or upon any of the streets, alleys or public places in the County between 11:00 p.m. and 5:00 a.m.

(b) *Exceptions.* It shall NOT be a violation of this section for a child to be in a public place between the hours of 11:00 p.m. and 5:00 a.m. if:

1. The child is accompanied by his/her parent(s) or guardian;
2. The child is participating in, going to or returning from lawful employment, a school-sanctioned activity, or a religious event;
3. The child is engaging in any activities protected by the First Amendment;
4. The child is involved in an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
5. The child is involved in any activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one or more adults; or
6. The child is involved in transportation either within or without the state;

(c) *Probable Cause.* Before an officer may issue a citation, he/she must have probable cause to believe the child has violated the curfew ordinance and that no defense exists. The officer shall make reasonable inquiries as to why the minor is in a public place during curfew hours.

(d) *Penalty.* Any person under the age of 17 years old who shall violate this section shall forfeit an amount not more than \$100.00. Such amount shall double for all subsequent violations. Any parent, guardian or other person having legal custody of a child under the age of 17 years who violates this section shall forfeit an amount not more than \$100.00. Such amount shall double for all subsequent violations.

(Ord. No. 2003-21, 12-16-2004, Ord. No. 2005-04 , 6-21-05.)

Sec. 42-6. Assemblage of Large Numbers of People.

(a) *Purpose of section.* It is the purpose of the County Board of Supervisors to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the County, in order that the health, safety and welfare of all persons in the County, residents and visitors alike, may be protected.

(b) *License required.*

- (1) No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to an actual or reasonably anticipated assembly of 2,500 or more people which continues or can

reasonably be expected to continue for 8 or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the Protection of Persons and Property Committee, application for which must be made at least 60 days in advance of the assembly. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

- (2) As used in this section, the term "person" means any individual, natural, human being, partnership, corporation, firm, company, association, society or group; and the term "assembly" means a company of persons gathered together at any location at any single time for any purpose.
 - (3) A separate license shall be required for each day and each location in which 2,500 or more people assemble or can reasonably be anticipated to assemble. The fee for each license shall be \$500.00.
 - (4) A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum permissible number of people.
 - (5) The license shall not permit the sound of the assembly to carry unreasonably beyond the boundaries of the location of the assembly.
 - (6) This section shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.
 - (7) This section shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other ordinances and regulations of the County.
- (c) *Conditions for issuing license.* Before a license may be issued the applicant shall first:
- (1) Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly, and provided that, where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the Zoning or Health ordinances of the County;
 - (2) If determined necessary by the Protection of Persons and Property Committee, provide proof that he will furnish at his own expense before the assembly commences:
 - a. A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four gates, at least one at or near four opposite points of the compass;

- b. Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and water for bathing at the rate of at least ten gallons per person per day;
- c. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 200 females and at least one toilet for every 300 males together with an efficient, sanitary means of disposing of waste matter deposited which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet;
- d. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight-fitting lids and personnel to perform the task;
- e. Physicians and nurses licensed to practice in the state sufficient to provide the average medical care enjoyed by residents of the state for the maximum number of people to be assembled at the rate of at least one physician for every 1,000 people and at least one nurse for every 1,500 people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one emergency ambulance available for use at all times;
- f. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five footcandles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly;
- g. A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons;
- h. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons;
- i. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of this County, sufficient to provide camping accommodations for the maximum number of people to be assembled;

- j. Security guards either regularly employed, duly sworn, off-duty state peace officers or private guards, licensed in the state, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people;
- k. Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of this County, and sufficient emergency personnel to efficiently operate the required equipment;
- l. All reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly;
- m. A bond, filed with the County Clerk, either in cash or underwritten by a surety company licensed to do business in the state in an amount of not less than \$25,000.00, or as otherwise directed by the Protection of Persons and Property Committee which shall indemnify and hold harmless the County or any of its agents, officers, servants and employees from any liability or causes of action which might arise by reason of granting this license and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(d) *Application.*

- (1) Application for a license to hold an actual or anticipated assembly of 2,500 or more persons shall be made in writing to the Protection of Persons and Property Committee at least 60 days in advance of such assembly.
- (2) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application, in the case of an individual, natural, human being; by all officers, in the case of a corporation; by all partners, in the case of a partnership; or by all officers of an unincorporated association, society or group or, if there are no officers, by all members of such association, society or group.
- (3) The application shall contain and disclose:
 - a. The name, age, residence and mailing address of all persons required to sign the application by subsection (d)(2) of this section and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent or more of the stock of such corporation;
 - b. The address and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owners of all such property;

- c. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owners of all such property that the applicant has permission to use such property for an assembly of 2,500 or more persons;
- d. The nature or purpose of the assembly;
- e. The total number of days and/or hours during which the assembly is to last;
- f. The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, (in consideration of the nature of the assembly) or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the Zoning Ordinances of the County if the assembly is to continue overnight;
- g. The maximum number of tickets to be sold, if any;
- h. The plans of the applicant to limit the maximum number of people permitted to assemble;
- i. The plans for fencing the location of the assembly and the gates contained in such fence;
- j. The plans for supplying potable water including the source, amount available and location of outlets;
- k. The plans for providing toilet and lavatory facilities including the source, number and location, type, and the means of disposing of waste deposited;
- l. The plans for holding, collection, and disposing of solid waste material;
- m. The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service;
- n. The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps;
- o. The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots;
- p. The plans for telephone service including the source number and location of telephones;
- q. The plans for camping facilities, if any, including facilities available and their location;

- r. The plans for security including the number of guards, their deployment, and their names, addresses, credentials and hours of availability;
 - s. The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment;
 - t. The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;
 - u. The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers.
- (4) The application shall include the bond required in subsection (c)(2)m of this section, and the license fee.
 - (5) The Protection of Persons and Property Committee may also assess against the applicant a charge in an amount sufficient to cover the anticipated additional costs to law enforcement, including traffic control, crowd control and security issues.
- (e) *Issuance.* The application for a license shall be processed within 45 days of receipt and shall be issued if all conditions are complied with.
- (f) *Revocation.* The license may be revoked by the Protection of Persons and Property Committee at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.
- (g) *Enforcement.*
- (1) The provisions of this section may be enforced by injunction in any Court of competent jurisdiction.
 - (2) The holding of an assembly in violation of any provision or condition contained in this section shall be deemed a public nuisance and may be abated as such.
 - (3) Any person who violates subsection (b)(1) of this section or who violates any condition upon which he is granted a license may be fined not less than \$1,000.00 nor more than \$10,000.00. Each day of violation shall be considered a separate offense.

Sec. 42-7. Firearms Restricted in Certain County Buildings.

- (a) *Definitions.* The following words, terms and phrases when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning.

Carry means to go armed with.

Firearm means a weapon that acts by force of gunpowder.

Former law enforcement officer means a person who separated from service as a law enforcement officer at a state or local law enforcement agency in Wisconsin, or a federal law enforcement agency and who resides in Wisconsin issued a certification under §175.49 Wis. Stats.

Law Enforcement Officer means a person who is employed by a law enforcement agency for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.

(b) In addition to the provisions of Wis. Stats. §175.60 enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person, other than a law enforcement officer or a former law enforcement officer, to enter the following County buildings while carrying a firearm:

- (1) Ledge View Nature Center
- (2) Highway Shop – Chilton
- (3) Highway Garage – Sherwood
- (4) The Lodge at Calumet County Park
- (5) Appleton Health and Human Services Office
- (6) Parks Office
- (7) Shelter at Calumet County Park
- (8) Maintenance Building at Calumet County Park

(c) Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1 shall be posted in prominent places near all entrances of said buildings where firearms are prohibited.

(d) Any person who enters or remains in any aforementioned County building contrary to such signage, shall be considered a trespasser subject to penalty as proscribed under §1-7 of this Code.

Sec. 42-8. Registration of Entertainers.

(1) PURPOSE. The purpose of this chapter is to:

- a. Regulate Adult Cabarets and Sexually Oriented Businesses to the extent that the many types of criminal activities frequently engendered by such will be curtailed. However, the County recognizes that such regulation cannot de facto approach prohibition, otherwise a protected form of expression would vanish. This chapter represents a balancing of competing interests: reduced criminal activity through the regulation of Adult Cabarets and Sexually Oriented Businesses versus the protected rights of entertainers and patrons.
- b. Promote the health, safety, welfare, and morals of the citizens of Calumet County by establishing reasonable and uniform regulations to prevent the deleterious secondary effects associated with the operation of Adult Cabarets and Sexually Oriented Businesses. The provisions of this Chapter have neither the purpose, nor the effect, of imposing a limitation or restriction on the content of any communicative or expressive materials or acts, including sexually oriented materials or acts. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials or acts protected by the

First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(2) APPLICATION:

- a. This section shall only apply to Entertainers employed or desiring to work, entertain or perform in Adult Cabarets and Sexually Oriented Businesses, and to the Adult Cabarets and Sexually Oriented Businesses which allow services or performances by such Entertainers, as defined below, subject to the excluded categories of businesses described in (2)(b) below.
- b. Excluded from application of the provisions of this section are the following establishments: wherever performances of serious artistic merit, theaters, performing arts centers, civic centers, and dinner theaters, where live dance, ballet, or music, of serious artistic merit, are offered, or legitimate educational, medical or health-related programs are offered, and in which the predominant business or attraction is not the offering to customers of entertainment which is intended for the sexual interests or titillation of customers, and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, live nude or live semi-nude performances, or live specified sexual activities take place. Also excluded from application of this section are such establishments as hotels, motels and restaurants which do not operate Adult Cabarets and Sexually Oriented Businesses.

(3) AUTHORITY:

- a. The County recognizes that the U.S. Supreme Court has held that nude/semi-nude dancing is expressive conduct within the parameters of the First Amendment to the United States Constitution and therefore entitled to protection under the First Amendment, and the County further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights.
- b. The County recognizes that it lacks authority to regulate obscenity, as proscribed by Wis. Stats. §66.0107(3), and does not intend by adopting this Ordinance to regulate obscenity, but the County declares its intent to enact an ordinance addressing the secondary effects of live nude/semi-nude, non-obscene, erotic entertainment/dancing in Adult Cabarets and Sexually Oriented Businesses.
- c. The County has authority under its general police powers, set forth in Wisconsin Chapter 59, to act for the good order of the County and for the health, safety and welfare of the public; and may carry out its powers by regulation.

(4) FINDINGS:

- a. The County is aware, based on the experiences of other communities, its own observations, and the testimony of law enforcement personnel, that Adult Cabarets and Sexually Oriented Businesses in which live, nude or semi-nude non-obscene erotic dancing occurs, may and do generate secondary effects which the County believes are detrimental to the public health, safety and welfare of the

citizens of Calumet County.

- b. Various studies were reviewed and testimony was taken which show that adverse secondary effects accompany Adult Cabarets and Sexually Oriented Businesses. The County Board finds that these studies are instructive and relevant to Calumet County. The studies reviewed were:
 - i. Planning Department, City of Amarillo, TX, September 12, 1977
 - ii. Austin City Council Report on Adult Oriented Businesses in Austin, May 19, 1986
 - iii. Final Report to the City of Garden Grove, The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard, October 23, 1991
 - iv. An Analysis of the Effects of Sexually Oriented Businesses on the Surrounding Neighborhoods in Dallas, TX, April 1997
 - v. Houston City Council – Sexually Oriented Businesses Ordinance Revision Committee Legislative Report, January 7, 1997
 - vi. Adult Entertainment Business in Indianapolis, February 1984
 - vii. An Analysis of the Relationship Between Adult Entertainment Establishments, Crime and Housing Values, Minneapolis City Council, October 1980
 - viii. New Port News, VA, Adult Use Study, March 1996
 - ix. Regulation of Adult Entertainment Establishments in St. Croix County, WI, September 1993
 - x. Director’s Report-Proposed Land Use Code Text Amendment Adult Cabarets, Seattle, WA, March 24, 1989
 - xi. Whittier, CA, Staff Report Amendment to Zoning Regulations, Adult Businesses in C-2 Zone with Conditional Use Permit, January 9, 1978
 - xii. Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses, June 6, 1989
- c. The County reviewed a Legal Memorandum prepared by the Calumet County Corporation Counsel in regard to legal cases involving regulation of Adult Entertainment Establishments and Sexually Oriented Business and a synopsis of the studies listed above.
- d. Based upon the foregoing evidence, the County finds that:
 - i. Crime statistics show that many types of crimes, especially sex-related crimes, such as prostitution, occur with more frequency in neighborhoods where Adult Cabarets and Sexually Oriented Businesses are located. In some studies crime increased exponentially in neighborhoods where Sexually Oriented Businesses were located, ranging from 177% to 482% higher than other areas.
 - ii. Drug dealing has been shown to occur in neighborhoods where Adult Cabaret and Sexually Oriented Businesses are located.
 - iii. Some persons frequent Adult Cabarets and Sexually Oriented Businesses for the purpose of engaging in illicit sexual behavior on the Premises and this behavior can contribute to an increased public health risk through the

spread of sexually transmitted diseases.

- iv. Areas with Adult Cabarets and Sexually Oriented Businesses exhibit an increased potential for infiltration by organized crime for the purpose of unlawful conduct.
 - v. Law Enforcement will be aided by licensing Entertainers since often the Entertainer uses a “stage name”. Licensing will provide the true name and contact information for the Entertainer, law enforcement investigations will not be hampered and the County will be able to allocate its Law Enforcement resources effectively to otherwise protect its citizens and the community. Licensing will further enable Law Enforcement to ascertain if an applicant is underage or has engaged in criminal or other behavior of the sort the ordinance is designed to limit.
- e. The County has determined that the enactment of an ordinance prohibiting Adult Cabarets and Sexually Oriented Businesses from allowing Entertainers to perform without a license, and prohibiting Entertainers from performing without a license issued by the Sheriff promotes the goal of minimizing, preventing, and controlling the above-referenced adverse secondary effects and thereby protects the health, safety and welfare of the citizens of Calumet County.

(5) DEFINITIONS:

- a. *ADULT CABARET*. A nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:
 - i. Persons who appear in a state of nudity or semi-nudity; or
 - ii. Live performances that are characterized by “specified sexual activities”.
- b. *ADULT ENTERTAINMENT*. Any exhibition of any motion pictures, live performances, display or dance of any type, which as a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- c. *ENTERTAINER*. Any person who performs, dances, or entertains at an Adult Cabaret or Sexually Oriented Business in the form of either live nudity, live semi-nudity or live specified sexual activities as defined herein, whether or not for consideration, including but not limited to fees, wages, or tips, charged or accepted for the performance, dancing or entertainment, and whether or not the performance, dancing or entertainment is provided in the capacity of an employee, independent contractor or under some other arrangement for monetary gain for the Entertainer or the Adult Cabaret or Sexually Oriented Business, or both.
- d. *NUDE or NUDITY*. The showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, the showing of the

female breast with less than a fully opaque covering of any part of the nipple and areola, or the showing of covered male genitals in a discernible turgid state. This definition shall not include any portion of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel commonly worn by persons in public.

- e. *OPERATOR*. Any person, corporation, LLC, partnership or other business entity which operates, conducts, maintains or owns any Adult Cabaret or Sexually Oriented Business.
- f. *PREMISES*. The real property upon which an Adult Cabaret or Sexually Oriented Business is located, and all appurtenances thereto and buildings thereupon, including, but not limited to, the Adult Cabaret or Sexually Oriented Business, the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the Operator of the Adult Cabaret or Sexually Oriented Business.
- g. *SEMI-NUDE or SEMI-NUDITY*. The showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with not more than a complete opaque covering of any part of the nipple or areola. This definition shall not include any portion of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel commonly worn by persons in public.
- h. *SEXUALLY ORIENTED BUSINESS*. A business that regularly features either live nudity or live semi-nudity, as a permanent focus of its business, giving special prominence to such content on a permanent basis, as cited in *Kraimer v. City of Schofield*, 342 F. Supp. 2d 807 at page 822, citing *Schultz v. City of Cumberland*, 228 F.3d 831, or otherwise permits live display of specified sexual activities to members of the public.
- i. *SHERIFF*. The Calumet County Sheriff or his designee.
- j. *SPECIFIED CRIMINAL ACTIVITY*. Means any of the following offenses: (1) 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; disseminating material harmful to juveniles, displaying the materials harmful to juveniles, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented material involving a minor; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country; (2) For which: (A) 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 (B) 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.
- k. *SPECIFIED SEXUAL ACTIVITIES*. Live simulated or live actual:

- (1) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus; and/or
- (2) Showing of human genitals in a state of sexual stimulation or arousal; and/or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts, whether covered or uncovered.
- (4) Excretory functions as part of or in connection with any of the activities set forth in the Subsections above.

(6) LICENSING OF ENTERTAINERS:

- a. No person, in a nude or semi-nude state, shall provide services to customers, perform, dance or entertain at an Adult Cabaret or Sexually Oriented Business, without first applying for and obtaining a valid license from the Sheriff.
- b. Applications shall be made to the Sheriff during normal business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.
- c. Applications shall be made on the form provided by the Sheriff.
- d. Applications shall be accompanied by a \$60 non-refundable fee to cover the costs of administration and investigation. Payments may be by cash, certified check or money order. Personal checks will not be accepted.
- e. All licenses are valid for a period of one (1) year and shall expire one year from the date of issuance.
- f. Applicants for a license shall be 18 years of age or older at the time of application.
- g. The Application shall contain, at a minimum:
 - i. Legal name, driver's license number or other government issued identification number, home address, birth date, any aliases used, telephone numbers, dates of employment, performances or contract, and
 - ii. Name of the Adult Cabaret or Sexually Oriented Business where the Entertainer will be performing.
 - iii. A photograph of the Entertainer, which shall be taken by the Sheriff's Department.
- h. Subject to paragraph 7(a)iii below, upon submission of the application and payment of the fee, the Sheriff or his designee shall issue the license to the Entertainer within one business day if the Sheriff is unable to issue the license immediately.
- i. The license shall entitle an Entertainer to work at only the Adult Cabaret or

Sexually Oriented Business indicated on the license.

(7) DENIAL, SUSPENSION, REVOCATION AND NON-RENEWAL OF LICENSE:

- a. In General. Any license granted herein may be denied, revoked, suspended, or not renewed by the Sheriff as follows:
 - i. If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent or intentionally deceptive;
 - ii. If any cost or fee required to be paid by this Section is not paid.
 - iii. Conviction of any offense contrary to §§944.01 through 944.36, Wis. Stats, or any specified criminal activity.
 - iv. If the Applicant changes their address or telephone number during the period in which the license is valid and does not inform the Sheriff within 30 days of the change.
- b. *Procedure for non-issuance, suspension, revocation or nonrenewal of license.* Wis. Ch. 68, relating to the administrative review procedure shall be the procedure for review of decisions of the Sheriff relating to this Chapter 42-7.
 - i. *Determination.* The Sheriff or his designee shall give written notice of any decision of the Sheriff to not issue, suspend, revoke or not renew a license for any Entertainer by regular mail to the last known address shown on the application or license previously issued, and to the adult cabaret or sexually oriented business. Failure to receive the written notice due to not informing the Sheriff of the address change pursuant to (7)(a)iv. above shall not be a defense for failure to receive the notice. The written notice shall be dated, and shall advise the Entertainer of the right to have the decision reviewed, the time within which the review may be obtained, and whom the request for review should be sought from.
 - ii. *Request for review of Determination.* The Entertainer may have the determination reviewed and must do so by written request either mailed or delivered to the Sheriff's Department within 30 days of receiving the adverse determination. The written request for review shall state the ground or grounds upon which the Entertainer contends that the decision should be modified or reversed. The determination reviewed under this section shall be termed an "initial determination."
 - iii. *Review of Initial Determination.* The Sheriff, or his designee, shall review the initial determination within 15 days of the receipt of a request for review. The Sheriff, or his designee, may affirm, reverse or modify the initial determination and shall mail the Entertainer a copy of the Sheriff's decision on review, which must state the reasons for the decision. The written decision on the review shall advise the Entertainer of the right to appeal the decision, the time within which an appeal shall be taken and the office or person with whom the notice of appeal shall be filed.

- iv. *Administrative Appeal.* Appeal of a decision by the Sheriff under paragraph (iii) above shall be heard within 30 days' notice of the decision by mailing a written notice of appeal to the office or person designated in the Sheriff's decision on review.

- v. *Hearing on Administrative Appeal.* An appeal under paragraph (iv) above shall be heard within 15 days of the receipt of the notice of appeal filed with the office or person designated in the Sheriff's decision on review. The Sheriff shall serve the Entertainer with notice of the hearing by mail at least 10 days before the hearing.
 - 1. The Entertainer and the Sheriff may be represented by an attorney and may present evidence and call and examine witnesses and cross-examine witnesses of the other party.
 - 2. All witnesses shall be sworn by the person conducting the hearing.
 - 3. The rules of evidence shall not apply and the Entertainer shall have the burden of proving by a preponderance of the evidence that the denial, suspension, non-renewal or revocation was arbitrary or capricious and an abuse of discretion.
 - 4. The Protection of Persons and Property Committee shall be the body that will hear all administrative appeals.
 - 5. The Protection of Persons and Property Committee shall ensure that notes are taken of testimony and all exhibits are preserved. Upon the request of the Entertainer/Appellant, the Protection of Persons and Property Committee shall cause the proceedings to be taken by a stenographer or by a recording device, at the expense of the County.
 - 6. Within 20 days of completing the hearing, and the filing of briefs, if any, the Protection of Persons and Property Committee shall mail its written decision which shall include its reasoning to the Entertainer/Appellant . This decision shall be the "final determination."

- vi. *Judicial Review.* If the decision is adverse to the Entertainer/Appellant, he/she may seek review by certiorari by the Calumet County Circuit Court within 30 days of the final determination.

(8) OPERATOR RECORDS AND INSPECTION:

- a. An Operator shall maintain a register of all Entertainers performing at the Premises showing:
 - i. The full legal name and any and all aliases used by the Entertainer

- ii. Home address
 - iii. Birthdate
 - iv. Telephone number
 - v. Driver's license number or identification card number
- b. The above information shall be maintained in a register on the Premises for a period of two years after the Entertainer last performed at the Premises.
 - c. The Operator shall make the register available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency during the Operator's normal business hours. The purpose of an inspection shall be to determine if the register meets the requirements of this Section.
 - d. The Operator shall conspicuously display all licenses required by this Chapter.

(9) PENALTY:

- a. In alternative to, or in conjunction with, any action the County may take in order to enforce this Section, any Entertainer failing to comply with the provision of this Section shall be punished upon conviction thereof by a fine of \$50.00 for each separate offense. Each day an unlicensed Entertainer is performing, dancing or otherwise entertaining at an Adult Cabaret or Sexually Oriented Business shall be considered and charged as a separate offense, punishable by a separate fine.
- b. Any Operator knowingly employing an unlicensed Entertainer or otherwise permitting an unlicensed Entertainer to perform, dance or otherwise entertain on the Premises shall be punished, upon conviction, by a fine of \$50.00. For purposes of this section, "knowingly" only requires that the Operator believes that the Entertainer has not been issued a license or that the license presented to the Operator is a forgery. Each day an unlicensed Entertainer is employed, or permitted to perform, dance, or otherwise entertain at any Adult Cabaret or Sexually Oriented Business, shall constitute a separate offense punishable by a separate fine.

(Ord. No. 29, §§I--VII, 8-18-1970; Ord. No. 2011-05, §§3 & 7, 9-20-11; Ord. No. 2014-09, §8, 1-20-15; Ord. No. 2014-10, §8, 2-17-15.)

RESERVED

CHAPTER 44

PROPERTY ASSESSED CLEAN ENERGY FINANCING (PACE)

Sec. 44-1. Title

Sec. 44-2. Statutory Authority.

Sec. 44-3. Purpose.

Sec. 44-4. Definitions.

Sec. 44-5. Pace Loans as Special Charges; Delinquent Amounts as Liens.

Sec. 44-6. Wisconsin PACE Commission.

Sec. 44-7. Loan Approval.

Sec. 44-8. Supplemental Agreement.

Sec. 44-9. Annual Installments Added to Tax Rolls.

Sec. 44-10. Remittance of Special Charges.

Sec. 44-11. Property Tax Procedures.

Sec. 44-12. Sale of Foreclosed Property.

Sec. 44-13. Distribution of Foreclosure Proceeds.

Sec. 44-14. Effect.

Sec. 44-1. Title.

This ordinance may be referred to as the Property Assessed Clean Energy Financing Ordinance or the PACE Ordinance.

Sec. 44-2. Statutory Authority.

This ordinance is enacted pursuant to Wis. Stat. §66.0627, which authorizes Calumet County to make a loan or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or a lessee of a premises located in the County, for making or installing an energy efficiency improvement, a water efficiency improvement, or a renewable resource application to a premises.

Sec. 44-3. Purpose.

Calumet County finds that renovations or additions to premises located in the County made to improve energy efficiency, improve water efficiency, and/or use renewable resource applications, increase property values, stimulate local economic activity, provide local and global environmental benefits, and promote the general welfare of Calumet County residents. The purpose of this Section is to facilitate loans arranged by property owners or lessees to make such improvements by treating loan principal and interest, fees, and other charges as special charges eligible for inclusion on the tax roll for these properties.

Sec. 44-4. Definitions.

(a) *Word Usage.* In the interpretation of this chapter, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:

(1) *Shall.* The word “shall” is mandatory.

(2) *May.* The word “may” is permissive.

- (b) *Definitions.* When used in this chapter, the following terms shall have the meanings herein assigned to them. Words used in this chapter, but not defined herein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it. For purposes of easy reference within this section, the following terms will appear in italicized print.
- (1) “*Annual installment*” means the portion of the PACE loan that is due and payable for a particular year under the supplemental agreement.
 - (2) “*Borrower*” means the property owner or lessee of the subject property that borrows the proceeds of a PACE loan.
 - (3) “*Default loan balance*” means the outstanding balance, whether or not due, of a PACE loan at the time that Calumet County receives foreclosure proceeds.
 - (4) “*Foreclosure proceeds*” means the proceeds received by Calumet County from the disposition of a subject property through an *in rem* property tax foreclosure.
 - (5) “*Loan amount*” means the principal, interest, administrative fees (including the Program Administrator’s fees) and other loan charges to be paid by the borrower under the PACE loan.
 - (6) “*PACE*” means the acronym for property assessed clean energy.
 - (7) “*PACE default provisions*” means:
 - A. The delinquent annual installment(s) due when Calumet County initiates the *in rem* property tax foreclosure on the subject property;
 - B. Any additional annual installment(s) that become due between the time that Calumet County initiates *in rem* property tax foreclosure on the subject property and the date Calumet County receives the foreclosure proceeds;
 - C. Any default interest charges applied to unpaid annual installments referenced in subs. (1.) and (2.) above, as provided in the supplemental agreement; and
 - D. Any default loan balance.
 - (8) “*PACE lender*” means any person that makes a PACE loan, and which may include an affiliate of the borrower.
 - (9) “*PACE loan*” means a loan made by a PACE lender to a borrower under this Section for energy efficiency improvements, water efficiency improvements, or renewable resource applications made to or installed on a subject property.
 - (10) “*Person*” means any individual, association, firm, corporation, partnership, limited liability company, trust, joint venture or other legal entity, or a political subdivision as defined in Wis. Stat. §66.0627.
 - (11) “*Program Administrator*” means the person retained by the Wisconsin PACE Commission as provided in subsection (5)(b).

- (12) “*Subject property*” means any premises located in Calumet County on which an energy efficiency improvements, water efficiency improvements, or renewable resource applications are being or have been made and financed through an outstanding PACE loan.
- (13) “*Supplemental agreement*” means a written agreement among a borrower, a PACE lender and Calumet County, as provided for in subsection (7).
- (14) “*Wisconsin PACE Commission*” means the Wisconsin PACE Commission formed under Wis. Stat. §66.0301, by Calumet County and one or more other political subdivisions as defined in Wis. Stat. §66.0627, pursuant to a Joint Exercise of Powers Agreement relating to the Wisconsin PACE Commission.

Sec. 44-5. Pace Loans as Special Charges; Delinquent Amounts as Liens

Any PACE loan made and secured pursuant to this Section shall be considered a special charge on the subject property. Any annual installment or portion of a PACE loan made and secured pursuant to the Section that becomes delinquent according to the terms of the PACE loan shall be a lien against the subject property and placed on the tax roll, as permitted pursuant to Wis. Stat. §66.0627.

Sec. 44-6. Wisconsin PACE Commission

- (a) Any of the powers and duties of Calumet County under this Section, except for those under Sec. 44-7. may (but are not required to) be delegated to the Wisconsin PACE Commission.
- (b) The Wisconsin PACE Commission is further authorized to retain a Program Administrator to act as its agent and administer the PACE program, subject to adherence with PACE program requirements set forth in this Section and in Wis. Stat. §66.0627.

Sec. 44-7. Loan Approval

- (a) A prospective borrower applying for a PACE loan shall comply with the loan application process set forth in the program manual approved by Calumet County.
- (b) Calumet County shall approve the financing arrangements between a borrower and PACE lender.

Sec. 44-8. Supplemental Agreement

- (a) Calumet County, the borrower and the PACE lender shall execute the supplemental agreement which, without limitation:
 - (1) Shall inform the participants that the PACE loan amount shall be imposed as and considered a special charge, and each year’s annual installment may be included on the property tax roll of the subject property as a special charge and an annual installment that is delinquent shall be a lien against the subject property pursuant to Wis. Stat. §66.0627;
 - (2) Shall recite the amount and the term of the PACE loan;
 - (3) Shall provide for the amount, or a method for determining the amount, of the annual installment due each year;

- (4) Shall provide default interest may be applied to unpaid annual installments;
 - (5) Shall require the PACE lender and the borrower to comply with all federal, state and local lending and disclosure requirements;
 - (6) Shall provide for any fees payable to Calumet County and/or Program Administrator;
 - (7) Shall recite that the supplemental agreement is a covenant that runs with the land;
 - (8) May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender, if any; and
 - (9) May allow for amendment by the parties.
- (b) Prior to executing the supplemental agreement, the owner of the subject property, if different from the borrower, and any existing mortgage holder(s) on the subject property, must have executed a separate writing acknowledging the borrower's use of PACE financing for the subject property and the special charge that will be imposed under this Section and its consequences, including the remedies for collecting the special charge.
 - (c) Each PACE loan shall be amortized over the term of the PACE loan as provided in the supplemental agreement.
 - (d) The annual payments of a PACE loan may be payable in installments as authorized by Wis. Stat. §66.0627.

Sec. 44-9. Annual Installments Added to Tax Rolls

Upon the request of the Program Administrator, Calumet County shall place each year's annual installment on the tax roll for the subject property as permitted pursuant to Wis. Stat. §66.0627.

Sec. 44-10. Remittance of Special Charges

- (a) Calumet County shall promptly remit to the Wisconsin PACE Commission any payment(s) for a special charge imposed under this Section, including penalties and charges thereon, it may receive from any taxing district or Calumet County treasurer pursuant to Wis. Stat. Ch. 74.

Sec. 44-11. Property Tax Foreclosure Procedures

- (a) Calumet County elects to utilize the provisions of Wis. Stat. §75.521, for the purpose of enforcing tax liens if a subject property owner fails to pay any special charges imposed on the subject property under this Section as required.
- (b) Calumet County shall begin an in rem property tax foreclosure proceeding on the subject property at the earliest time allowed under Wisconsin Statutes, unless the County determines that subject property is a "brownfield" (as defined in Wis. Stat. §75.106) or that in rem property tax foreclosure is not in the best interests of Calumet County due to the condition of the property or for other reasons.
- (c) If Calumet County has determined that it will not commence an in rem property tax foreclosure proceeding, then the PACE lender may request that Calumet County, pursuant to Wis. Stat. §75.106, assign Calumet County's right to take judgment against the subject property, provided

that the PACE lender and Calumet County fully comply with all provisions of Wis. Stat. §75.106, concerning the subject property and the PACE lender agrees to pay the amounts required by Wis. Stat. §75.36(3)(a)1 and 1m, .

Sec. 44-12. Sale of Foreclosed Property

If Calumet County prevails in an in rem property tax foreclosure action against a subject property, Calumet County shall diligently proceed to sell the subject property pursuant to the procedures set forth in Wis. Stat. §75.69.

Sec. 44-13. Distribution of Foreclosure Proceeds

The Calumet County treasurer shall follow the procedures set forth in Wis. Stat. §75.36, to distribute the proceeds from the sale of a subject property.

Sec. 44-14. Effect

This Ordinance shall take effect the day after passage and publication as required by law.

(2018-07, 9-18-18)

RESERVED

Chapter 46

PARKS AND RECREATION*

* **Cross References:** Environment, ch. 18; Streets, Sidewalks and Other Public Places, ch. 58; Waterways, ch. 78.

- Sec. 46-1. Introduction and Application.
- Sec. 46-2. General Park Provisions.
- Sec. 46-3. Motor Vehicles and Snowmobiles.
- Sec. 46-4. Parking Regulations.
- Sec. 46-5. Camping.
- Sec. 46-6. Harbor and Water Regulations.
- Sec. 46-7. Fire Control.
- Sec. 46-8. Intoxicating Liquor.
- Sec. 46-9. Penalty for Violation of Chapter.

Sec. 46-1. Introduction and Application.

This chapter shall effect and regulate the hours and use of the County Parks as follows:

Calumet County Park, located in the Town of Stockbridge
Stockbridge Harbor, located in the Village of Stockbridge
Ledge View, located in the Town of Chilton
Becker's Lake, located in the Town of Rantoul
Brothertown Harbor, located in the Town of Brothertown
Friendship State Recreational Trail a/k/a Friendship Trail, runs through Calumet County
Fox River Trail, runs through Calumet County
and any future county park.

The Parks Director and staff may enforce Chapter 46.

Sec. 46-2. General Park Provisions.

- (a) *Park areas and hours regulated.*
- (1) No person shall be in or upon County Park, Stockbridge Harbor, Brothertown Harbor, Friendship Trail or Becker's Lake during the hours from 11:00 p.m. to daylight unless registered for camping or by specific permission of the Parks Director or staff.
 - (2) No person shall be in or upon Ledge View during the hours from sunset to sunrise unless given specific permission by the Parks Director or staff.
 - (3) Quiet hours begin at 11:00 p.m. and end at 8:00 a.m. No person or persons shall do anything to breach the quiet during these hours.
 - (4) Bands or DJ's are not permitted in any county park except by specific permission of the Parks Director or staff.
 - (5) No hikers, bicycles or pets are permitted on any cross country ski trail in any county park during cross country ski season as determined by the Parks Director. Bicycles are not permitted on the trails in Ledge Park.

- (6) No person shall use the sled hill or tube hill in County Park if posted closed as determined by the Parks Director or staff.
- (7) No person shall bike on the mountain bike trails if posted closed as determined by the Parks Director or staff.
- (8) No pets are permitted on the tube hill in any county park during normal tube hill operating hours as determined by the Parks Director or staff.
- (9) The Parks Director or staff shall post a copy of the county park polices in a conspicuous place, as amended from time to time.

(b) *Damage to park property.*

- (1) No person shall cut down, root up, sever, injure or carry away when severed any shade tree or other tree or shrub growing in any county park.
- (2) No person shall pick any nuts, fruits, berries, wild flowers, or anything that grows within any county park.
- (3) No person or persons shall throw or otherwise deposit or leave litter upon the grounds in any county park.
- (4) No person shall dispose of any type of sewage from any recreational vehicle or any other source on the grounds in any county park.
- (5) The placing, throwing or disposing of any type of refuse in the dumpsters located in the maintenance area of any county park is prohibited except for trash and recyclable material generated in normal park use. Normal park use includes camping, picnicking, boating, and hiking.

(c) *Disorderly conduct.* No person shall engage in violent, abusive, unreasonably loud, boisterous, vulgar, lewd, wanton, obscene or otherwise tending to create or provoke a breach of peace or annoy others at any time in any county park.

(d) *Firearms and weapons control.*

- (1) No person other than a sheriff, constable, police officer, deputy, or Parks Director, pursuant to 46-2(e)(4), shall: carry, possess, fire, discharge or shoot any firearm, rifle, spring or air gun of any description; nor shall any person engage in trapping or hunt with bow and arrow, within any park, except where in use for hunting purposes, following State of Wisconsin hunting regulations, on lands designated for such purposes within areas identified by Calumet County Parks, as required through a grant condition for the purchase of the property or otherwise authorized in this code.
 - a. Subsection (1) does not apply to the discharge of a firearm if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stat. s. 939.45.
 - b. For purposes of this section firearm, is defined by statute
 - c. For purposes of this section air gun is defined by statute and is prohibited,

unless unloaded and enclosed in a carrying case or permitted for hunting purposes as outlined in Subsection (1).

- d. For purposes of this section bow, is defined by statute and is prohibited, unless unstrung and enclosed in a carrying case or permitted for hunting as outlined in Subsection (1).

(2) A County permit is required to hunt or trap in any County Park lands.

- a. Permits are limited in number;
- b. Permits will be issued by and at the discretion of Calumet County's Parks Director;
- c. Individuals must carry this permit on their person at all times while hunting or trapping in a County park.

(Ordinance 2014-07, Nov. 3, 2014; Ordinance 2017-10, Dec. 19, 2017.)

(e) *Animal control.*

- (1) No person shall take, catch, hunt, kill, trap, pursue or otherwise disturb any wild animals or birds in any county park.
- (2) No person at any time shall have any pet or any other animal of any kind on or in any county park, which animal is not quiet or which is not under the immediate control or restrained by a leash, chain, rope, or kept within a cage, kennel or other enclosure as determined by the Parks Director or staff.
- (3) Pet owners shall immediately clean up after their pets and properly dispose of waste material. No pets shall be tied up to any park trees or equipment at any time.
- (4) The Parks Director or staff is empowered to remove or destroy, or authorize the removal or destruction of, vicious or nuisance animals for the protection of persons or property in any county park, to the extent of law.

(f) *Horses.* No person shall drive or ride any horse in any county park except on the paved roads and established bridle paths therein.

(g) *Caves.*

- (1) No person shall enter or be inside any cave at any county park unless accompanied and/or supervised by park staff, except with the specific permission of the Parks Director or staff.
- (2) No person shall damage any caves at Ledge View Park.

(h) *Tube hill.*

- (1) No person shall use the towrope or rent a tube without paying all applicable fees prior to using the towrope or rental tube.
- (2) Only acceptable inflatable tubes and towropes, as determined by the Parks Director or staff, are permitted on the designated tube hill.

(i) *Ledge View Park.* In order to protect the grounds and plant life, no person shall leave the

marked trails of Ledge View Park without the permission of the Parks Director or staff.

Sec. 46-3. Motor Vehicles and Snowmobiles.

- (a) No person shall operate any vehicle, as defined in Wis. Stats. §340.01(74), except on the road or parking lots located in any county park unless given specific permission by the Parks Director or staff.
- (b) No person shall operate any vehicle at a speed greater than 15 miles per hour on any road located within any county park.
- (c) No all-terrain vehicles (ATV's) are permitted on any part of any county park unless given specific permission by the Parks Director or staff.
- (d) Snowmobiles are not permitted on any part of any county park except designated snowmobile trails unless given specific permission by the Parks Director or staff.
- (e) Motorized vehicles are not permitted on the Friendship Trail and the Fox River Trail unless given specific permission by the Parks Director or staff. Snowmobiles are permitted during periods of snow when the county snowmobile trails are open as determined by the Parks Director.

Cross References: Traffic and vehicles, ch. 70.

Sec. 46-4. Parking Regulations.

- (a) No person shall park any vehicle at any time in the following areas of County Park:
 - (1) At the north turnaround located directly west of the office.
 - (2) Along the west side of the road to and in the harbor area.
 - (3) On the north and south sides of the road leading to the tube hill during periods of natural snow.
 - (4) On the south turnaround in the County Park harbor area.
 - (5) In Stockbridge Harbor along the north parking lot boundary along the creek near the boat launch lanes, along both sides of the entrance road, around the bathroom curb as posted, against the curb along the west boundary of the parking lot as posted, and on any grassy area or service road.
- (b) No person shall park any vehicle at any time in the boat launch lanes and boat preparation lanes in any county park.
- (c) No person shall park any boat trailers without vehicle attached in any county park harbor parking lot without specific permission of the Parks Director or staff.
- (d) No person shall park any vehicle for more than 15 minutes in the following areas in County Park: Both sides of the road directly west of the bathhouse.

- (e) No person shall park any vehicle off the designated pads at campsites within the confines of any county park without specific permission of the Parks Director or staff.
- (f) No person other than park employees shall park in designated employee only parking areas as posted.
- (g) No vehicle shall be left in any park after 11:00 p.m. without the specific permission of the Parks Director or staff unless camping in Calumet County Park, docking at Stockbridge Harbor or Brothertown Harbor. When camping, a car pass must be properly displayed in accordance with County policies and rules.

Sec. 46-5. Camping.

- (a) Camping is prohibited in any county park except in designated campsites unless specific permission is granted by the Parks Director or staff.
- (b) No person shall set up on their designated campsites without properly registering with the Parks Director or staff. Camping permits must be displayed at their designated campsite, with each camping unit properly registered and all fees paid prior to using the camping site in accordance with park policies.
- (c) No person shall use the dump station facility in any county park without paying all fees prior to using the facility.
- (d) No person shall camp in any County Park longer than designated by County policy or rules.
- (e) No person shall have more camping units (tents, trailers, etc.) in a campsite than permitted under County policy or rules.
- (f) No person shall have more persons or vehicles staying on the campsite after 11:00 p.m. than permitted by County policy or rules.

Sec. 46-6. Harbor and Water Regulations.

Pursuant to the power authorized in Wis. Stats. §30.77(2) and (3):

- (1) The County Parks Director or staff shall have complete supervision of the harbors located in any county park.
- (2) Every person who launches or lands a watercraft in any county park shall either purchase a daily launch permit or purchase a season launch permit prior to using facilities. Daily and seasonal permits must be properly displayed in accordance with park policies.
- (3) No person shall swim in any harbor/marina areas of any county park.
- (4) No watercraft shall cause a wake in any harbor or marina in any county park.
- (5) No persons shall camp, sleep, or in any manner stay on the boats in the harbor overnight in County Park. The only boats permitted in the harbor overnight are

those being used by current properly registered campers who have a daily boat launch permit displayed in accordance with park policies unless given specific permission by the Parks Director or staff, or those boats that require safe harbor in an emergency situation.

- (6) Staying overnight in Stockbridge Harbor on watercraft is prohibited except in designated dock sites, or those boats that require safe harbor in an emergency situation or with the specific permission of the Parks Director or staff. Camping/dock permits must be displayed at their designated dock site, and each boat must be properly registered and all fees paid prior to using the dock site in accordance with park policies.
- (7) Docking boats in launch lanes in any county park harbor is prohibited except for launching/landing boats not to exceed 15 minutes.
- (8) Overnight docking on the east bulkhead in Stockbridge harbor is prohibited unless given specific permission by the Parks Director or staff.
- (9) Only seasonal docking is permitted at Brothertown Harbor unless given specific permission by the Parks Director or staff, or those boats that require safe harbor in an emergency situation. Seasonal dock permits must be displayed at their designated dock site, and each boat must be properly registered and all fees paid prior to using the dock site in accordance with park policies.
- (10) Fishing shanties are not permitted in any county park except Stockbridge Harbor, County Park and Brothertown Harbor during the time period of December 1 through April 1. Fishing shanties are only permitted in designated vehicle parking areas.

Cross References: Waterways, ch. 78.

Sec. 46-7. Fire Control.

No person shall at any time have any open ground fires outside of grills or ground fire pits established by the Parks Director or staff or have any open ground fires during periods of fire bans as determined by the Parks Director or staff. All persons having fires in the grills or ground fire pits in any county park shall be responsible for completely extinguishing fires prior to leaving campsite or picnic area for any reason.

Sec. 46-8. Intoxicating Liquor.

Pursuant to Wis. Stats. §125.06(06), employees of the county parks shall be authorized to sell fermented malt beverages. Receipts from the sales of fermented malt beverages shall be deposited in the County Treasury.

Sec. 46-9. Penalty for Violation of Chapter.

Except as otherwise provided in this chapter, any person, found to be in violation of any provision of this chapter or any order, rule or regulation made under this chapter, shall be subject to a penalty as provided in sections 1-7 and 1-8 of this Code.

<u>Fines</u>		
<u>Section-paragraph</u>	<u>Violation</u>	<u>Fine/day</u>
46-2 (a)(1)(2)	Non registered person in park after closing	\$100
46-2(a)(3)	Quiet hours violation	\$100
46-2(a)(4)	DJ or band violations	\$300
46-2(a)(5)	Cross country trail bikes, hikers pets violations	\$50
46-2(a)(6)	On sled/ tube hill when closed	\$30
46-2(a)(7)	On mountain bike trails when closed	\$50
46-2(a)(8)	Pets on tube hill	\$50
46-2(b)(1)	Destroying trees and shrubs	\$300
46-2(b)(2)	Picking nuts fruits	\$100
46-2(b)(3)	Littering	\$100
46-2(b)(4)	Disposing of sewage on grounds	\$100
46-2(b)(5)	Unauthorized use of dumpsters	\$50

<u>Fines - continued</u>		
46-2(c)	Disorderly conduct	\$300
46-2(d)(1)(2)	Firearms/weapons violations	\$300
46-2(e)(1)(2)(3)(4)	Pet control violations	\$30
46-2(f)	Horse trail violations	\$100
46-2(g)(1)	Unauthorized in caves	\$100
46-2(g)(2)	Cave vandalism	\$300
46-2(h)(1)(2)	Tube hill violations	\$30
46-2(i)	Off trails at Ledge	\$100
46-3(a)	Vehicles off road	\$300
46-3(b)	Speeding	\$100
46-3(c)	No ATV's	\$100
46-3(d)	Snowmobiles off Trail	\$100
46-3(e)	Motorized vehicles Friendship/Fox River Trails	\$300
46-4(a)(1)(2)(3)(4)(5)	Parking violations	\$5
46-4(b)	Parking in boat launch lanes	\$60
46-4(c)	Boat trailers parking violations	\$30
46-4(d)	15 minute parking violations	\$5
46-4(e)	Parking RV's off pads	\$100
46-4(f)	Employee parking violations	\$5
46-4(g)	Unauthorized overnight parking	\$50
46-5(a)(b)(c)(e)(f)	Camping violations	\$60
46-5(d)	Dump station fee violations	\$25
46-6(2)through (10)	Harbor violations	\$60
46-7	Fire control	\$100

(Ord. No. 2004-06, 7-20-04; Ord. No. 2005-24, 2-21-2006.)

Chapter 47

RURAL NUMBERING ORDINANCE

Article I. Authority and Applicability

Sec. 47-1. Authority.
Sec. 47-2. Applicability.
Sec. 47-3 to 9, Reserved.

Article II. Issuance, Selection, Assignment, Posting and Maintenance

Sec. 47-10. Issuance.
Sec. 47-11. Administration.
Sec. 47-12. Posting.
Sec. 47-13. Maintenance.
Sec. 47-14--47-19, Reserved.

Article III. Town Signs

Sec. 47-20. Town Signs.
Sec. 47-21--47-29, Reserved.

Article IV. Enforcement and Penalties

Sec. 47-30. Enforcement
Sec. 47-31. Penalties
Sec. 47-31--47-39, Reserved.

ARTICLE I.

AUTHORITY AND APPLICABILITY

Sec. 47-1. Authority.

The Board of Supervisors of Calumet County does ordain as follows: The following is established as the rural numbering system for Calumet County pursuant to Sections 59.54 (4) and (4m) of Wisconsin Statutes.

Sec. 47-2. Applicability.

- (a) This Ordinance shall apply to all unincorporated areas of the County.
- (b) All buildings for residential, commercial, or industrial uses in Calumet County shall be assigned numbers based upon this ordinance.
- (c) The base lines in the County shall be the south county line and the east county line. The numbers shall start at 100 from each such base line. Odd numbers shall be given to buildings on the west side of roads running in a northerly and southerly direction and buildings on the south side of roads running in an easterly and westerly direction. Even numbers shall be given to buildings on the east side of roads running in a northerly and southerly direction and on the north side of roads running in an easterly and westerly direction.
- (d) From the established base lines for the County, there shall be 400 numbers per mile, with consecutive odd or even numbers every 26 feet on each side of the road.

Sec. 47-3.--47-9. Reserved.

ARTICLE II.

ISSUANCE, SELECTION, ASSIGNMENT, POSTING AND MAINTENANCE

Sec. 47-10. Issuance.

For future construction in the County, the number, consistent with this ordinance, shall be assigned upon the granting of a building and/or sanitary permit or the approval of a survey map. Only one number shall be assigned to any dwelling or principle building except duplexes shall be assigned two consecutive even or odd numbers. Both future and existing duplexes shall use the numbering system. Under circumstances where there are three or more units per dwelling, a suffix of A, B, C, etc., shall be used.

Sec. 47-11. Administration.

(a) The Calumet County Land & Water Conservation Department shall assign all new numbers and administer the provisions of this Ordinance.

(b) A supply of digits will be made available at the Department that meet the following minimum standards. All digits shall be:

1. In Latin script, Arabic format
2. At least 3 1/2" high and 2 1/2 inches wide

(c) The cost of the digits, number plate and post shall be borne by the property owner of the town, if so determined by the town.

(d) For the purpose of facilitating correct numbering, newly assigned numbers and maps showing the rural numbers of all buildings shall be kept on file in the Land & Water Conservation Department Office, and are available to the towns, emergency services, law enforcement, etc., upon request.

Sec. 47-12. Posting.

The assigned number shall be permanently affixed to a number plate, and the number plate shall be permanently affixed to a sign post. The sign post shall be permanently affixed in the ground on the side of the driveway on which the building is located. The number plate may be affixed to the building if the building is located within 100 feet of the centerline of the public road. The numbers placed under this section on either the sign post or a building shall be affixed to be read horizontally.

Sec. 47-13. Maintenance.

Property owners shall post and maintain their rural number in conformance with the requirements of this Ordinance and any subsequent amendments thereto. Maintenance shall include, but not be limited to, ensuring that the number plate is visible from the public road and is legible.

Sec. 47-14.--47-19. Reserved.

ARTICLE III.

TOWN SIGNS

Sec. 47-20. Town Signs.

Towns are herein authorized to utilize its own signs with County assigned numbers. If the town wishes to utilize its own signs, the town must adopt an ordinance giving it authority. The ordinance must address the specifications of the sign, its location, and maintenance, and a penalty provision. The town will assume responsibility for supplying the signs as well as all associated liability.

Sec. 47-21 to 29. Reserved.

ARTICLE IV.

PENALTIES

Sec. 47-30. Enforcement.

(a) *Enforcement.* Compliance with the provisions of this Ordinance shall be enforced by appropriate forfeitures and penalties. Compliance may also be enforced by injunctive suit of the County.

(b) *Notice.* In the case of violations of this Ordinance, the Code Administrator shall give notice of the nature of the violation to the property owner or responsible person, after which the person receiving notice shall have 30 days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by United States Registered or Certified Mail, or by posting notice on the premises. Notices of violation shall state the corrective steps necessary and the nature of subsequent penalties and enforcement actions, should the violation remain uncorrected. Whenever a person has been notified in writing that he is in violation of the provisions of this Ordinance, such person shall commence correction of all violations within 10 days of notice and shall correct all violations within 30 days of notice. If such corrections are not commenced within 10 days of written notice or not corrected within 30 days of written notice, each day that a violation continues shall be considered a separate offense, subject to the penalties enumerated in Sec. 47-31, *Penalties*.

Sec. 47-31. Penalties.

Anyone who refuses or fails to maintain the number plate, post the number plate, or posts the incorrect number plate, or who removes, destroys, or alters a number plate erected pursuant to this Ordinance shall be subject to a forfeiture of no less than twenty-five dollars (\$25.00) or no more than two hundred dollars (\$200.00), and upon failure to pay said forfeiture, may be imprisoned no more than thirty (30) days.

Sec. 47-32 to 39. Reserved.

(Establishment 1979-1, Amending Ordinance 1989-2, Amending Ordinance 1994-___, Ord. No. 2007-02, 05-15-07.)

Chapters 48--49

RESERVED

RESERVED

Chapter 51

FLOODPLAIN

Article I. Statutory Authorization, Finding of Fact, Statement of Purpose, Title and Provisions

- Sec. 51-1. Statutory Authorization.
- Sec. 51-2. Finding of Fact.
- Sec. 51-3. Statement of Purpose.
- Sec. 51-4. Title.
- Sec. 51-5. General Provisions.
- Sec. 51-6 to 15, Reserved.

Article II. General Standards Applicable to All Floodplain Districts

- Sec. 51-16. General Standards Applicable to all Floodplain Districts.
- Sec. 51-17. Hydraulic and Hydrologic Analyses.
- Sec. 51-18. Watercourse Alterations.
- Sec. 51-19. Chapter 30, 31, Wis. Stats., Development.
- Sec. 51-20. Public or Private Campgrounds.
- Sec. 51-21 to 30, Reserved.

Article III. Floodway District (FW)

- Sec. 51-31. Applicability.
- Sec. 51-32. Permitted Uses.
- Sec. 51-33. Standards for Developments in the Floodway.
- Sec. 51-34. Prohibited Uses.
- Sec. 51-35 to 44, Reserved.

Article IV. Floodfringe District (FF)

- Sec. 51-45. Applicability.
- Sec. 51-46. Permitted Uses.
- Sec. 51-47. Standards for Development in the Floodfringe.
- Sec. 51-48 to 60, Reserved.

Article V. General Floodplain District (GFP)

- Sec. 51-61. General Floodplain District (GFP).
- Sec. 51-62 to 70, Reserved.

Article VI. Non-Conforming Uses

- Sec. 51-71. General.
- Sec. 51-72. Floodway District.
- Sec. 51-73. Floodfringe District.
- Sec. 51-74 to 79, Reserved.

Article VII. Administration

- Sec. 51-80. Administration.
- Sec. 51-81. Zoning Administrator.
- Sec. 51-82. Zoning Agency.
- Sec. 51-83. Board of Adjustment.
- Sec. 51-84. To Review Appeals of Permit Denials.
- Sec. 51-85. Floodproofing Standards for Nonconforming Structures or Uses.
- Sec. 51-86. Public Information.
- Sec. 51-87. Fee Schedule.
- Sec. 51-88 to 93, Reserved.

Article VIII. Amendments

- Sec. 51-94. Amendments.
- Sec. 51-95. General.
- Sec. 51-96. Procedures.
- Sec. 51-97 to 109, Reserved.

Article IX. Enforcement and Penalties

- Sec. 51-110. Enforcement and Penalties.
- Sec. 51-111 to 119, Reserved.

Article X. Definitions

- Sec. 51-120. Definitions.

ARTICLE I.

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

Sec. 51-1. Statutory Authorization.

This ordinance is adopted pursuant to the authorization in §§59.69, 59.692, and 59.694 and the requirements in §87.30, Wis. Stats.

Sec. 51-2. Finding of Fact.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Sec. 51-3. Statement of Purpose.

- (a) This ordinance is intended to regulate floodplain development to:
- (1) Protect life, health and property;
 - (2) Minimize expenditures of public funds for flood control projects;
 - (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - (4) Minimize business interruptions and other economic disruptions;
 - (5) Minimize damage to public facilities in the floodplain;
 - (6) Minimize the occurrence of future flood blight areas in the floodplain;
 - (8) Discourage the victimization of unwary land and homebuyers;
 - (9) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - (10) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

Sec. 51-4. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for Calumet County, Wisconsin.

Sec. 51-5. General Provisions.

- (a) Areas to be Regulated.

This ordinance regulates all areas that would be covered by the regional flood or base Flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

- (b) Official Maps & Revisions.

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any

changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 51-94) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Planning, Zoning and Land Information Department, Calumet County, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) Official Maps: Based on the FIS:

A. Flood Insurance Rate Map (FIRM), panel numbers

55015C0009E, 55015C0028E, 55015C0029E, 55015C0037E, 55015C0039E, 55015C0041E, 55015C0042E, 55015C0043E, 55015C0055E, 55015C0060E, 55015C0065E, 55015C0070E, 55015C0077E, 55015C0078E, 55015C0079E, 55015C0083E, 55015C0087E, 55015C0090E, 55015C0091E, 55015C0093E, 55015C0127E, 55015C0129E, 55015C0133E, 55015C0137E, 55015C0139E, 55015C0141E, 55015C0151E, 55015C0152E, 55015C0153E, 55015C0154E, 55015C0156E, 55015C0158E, 55015C0159E, 55015C0161E, 55015C0163E, 55015C0164E, 55015C0166E, 55015C0167E, 55015C0168E, 55015C0169E, 55015C0176E, 55015C0177E, 55015C0178E, 55015C0179E, 55015C0185E, 55015C0186E, 55015C0187E, 55015C0188E, 55015C0189E, 55015C0195E, 55015C0227E, 55015C0229E, 55015C0235E, 55015C0252E, 55015C0255E, 55015C0256E, 55015C0276E, 55015C0277E, 55015C0278E, 55015C0279E, 55015C0285E, 55015C0290E, and 55015C0295E

dated February 4, 2009; with corresponding profiles that are based on the FIS dated February 4, 2009 and volume number 55015CV000A.

B. Official Maps: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. Letter of Map Revision (LOMR) (11-05-3616P, March 2, 2012).
2. Letter of Map Revision (LOMR) (15-05-1737P, April 17, 2012)
3. Sheboygan Marsh Dam (Field File #59.24, Sequence #308) Dam Failure Analysis (December 14, 2015), Prepared by YSJ International Consulting, LLC. Approved by WDNR on January 5, 2016.

(c) Establishment of Floodplain Zoning Districts.

(1) The regional floodplain areas are divided into three districts as follows:

- A. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
- B. The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- C. The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(d) Locating Floodplain Boundaries.

- (1) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs A. or B. below. If a significant difference exists, the map shall be amended according to s. 51-94. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-

development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to s. 51-83(c) and the criteria in A. and B. below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 51-94.

- A. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- B. Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) Removal of Lands from Floodplain.

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 51-94.

(f) Compliance.

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) Municipalities and State Agencies Regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Wis. Stats., applies.

(h) Abrogation and Greater Restrictions.

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §§59.69, 59.692 or 59.694 or s. 87.30, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) Interpretation.

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) Warning and Disclaimer of Liability.

The flood protection standards in this ordinance are based on engineering experience and

research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Sec. 51-6 to 15. Reserved.

ARTICLE II.

GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

Sec. 51-16. General Standards Applicable to all Floodplain Districts.

- (a) The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 51-81(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

Sec. 51-17. Hydraulic and Hydrologic Analyses.

- (a) No floodplain development shall:
- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - (2) Cause any increase in the regional flood height due to floodplain storage area lost.
- (b) The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 51-94 are met.

Sec. 51-18. Watercourse Alterations.

No Land Use Permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 51-17 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 51-94, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

Sec. 51-19. Chapter 30 and 31, Wis. Stats., Development.

Development which requires a permit from the Department under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the Floodplain Zoning Ordinance are made according to s. 51-94.

Sec. 51-20. Public or Private Campgrounds.

(a) Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health Services;
- (2) A Land Use Permit for the campground is issued by the Zoning Administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in sub. (4), to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) Calumet County shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article III, Article IV or Article V for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Sec. 51-21 to 30. Reserved.

ARTICLE III.

FLOODWAY DISTRICT (FW)

Sec. 51-31. Applicability.

This section applies to all floodway areas on the Floodplain Zoning Maps and those identified pursuant to s. 51-61(d).

Sec. 51-32. Permitted Uses.

- (a) The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if: they are not prohibited by any other ordinance; they meet the standards in ss. 51-33 and 51-34; and all permits or certificates have been issued according to s. 51-81:
 - (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 51-33(d).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 51-33 and 51-34.
 - (5) Extraction of sand, gravel or other materials that comply with s. 51-33(d).
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
 - (7) Public utilities, streets and bridges that comply with s. 51-33(c).

Sec. 51-33. Standards for Developments in the Floodway.

- (a) General.
 - (1) Any development in the floodway shall comply with Article II and have a low flood damage potential.
 - (2) Applicants shall provide the following data to determine the effects of the proposal according to s. 51-17:
 - A. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

B. An analysis calculating the effects of this proposal on regional flood height.

- (3) The Zoning Administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for par. (2) above.

(b) Structures.

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (3) Must be anchored to resist flotation, collapse and lateral movement;
- (4) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(c) Public Utilities, Streets and Bridges.

Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of s. 51-17.

(d) Fills or Deposition of Materials.

Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of s. 51-17 are met;
- (2) No material is deposited in the navigable waters unless a permit is issued by the Department pursuant to ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

Sec. 51-34. Prohibited Uses.

(a) All uses not listed as permitted uses in s. 51-32 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Sec. 51-35 to 44, Reserved.

ARTICLE IV.

FLOODFRINGE DISTRICT (FF)

Sec. 51-45. Applicability.

This section applies to all floodfringe areas shown on the Floodplain Zoning Maps and those identified pursuant to s. 51-61(d).

Sec. 51-46. Permitted Uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 51-47 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 51-81 have been issued.

Sec. 51-47. Standards for Development in the Floodfringe.

S. 51-17 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article VI.

(a) **RESIDENTIAL USES.**

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Article VI.

- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 51-47(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.

- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4).
- (4) In developments where existing street or sewer line elevations make compliance with par. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - A. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - B. The municipality has a DNR-approved emergency evacuation plan.

(b) ACCESSORY STRUCTURES OR USES.

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) COMMERCIAL USES.

Any commercial structure that is erected, altered or moved into the floodfringe shall meet the requirements of s. 51-47(a). Subject to the requirements of s. 51-47(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) MANUFACTURING AND INDUSTRIAL USES.

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 51-85. Subject to the requirements of s. 51-47(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) STORAGE OF MATERIALS.

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 51-85. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) PUBLIC UTILITIES, STREETS AND BRIDGES.

All utilities, streets and bridges shall be designed to be compatible with Comprehensive Floodplain Development Plans; and

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 51-85.
- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) SEWAGE SYSTEMS.

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 51-85(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) WELLS.

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 51-85(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) SOLID WASTE DISPOSAL SITES.

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) DEPOSITION OF MATERIALS.

Any deposited material must meet all the provisions of this ordinance.

(k) MANUFACTURED HOMES.

(1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

- A. have the lowest floor elevated to the flood protection elevation; and
- B. be anchored so they do not float, collapse or move laterally during a flood.

(3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 51-47(a).

(l) MOBILE RECREATIONAL VEHICLES.

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 51-47(k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Sec. 51-48 to 60, Reserved.

ARTICLE V.

GENERAL FLOODPLAIN DISTRICT (GFP)

Sec. 51-61. General Floodplain District (GFP).

(a) Applicability.

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) Permitted Uses.

Pursuant to s. 51-61(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in Floodway (s. 51-32) and Floodfringe (s. 51-46) Districts are allowed within the General Floodplain District, according to the standards of s. 51-61(c), provided that all permits or certificates required under s. 51-81 have been issued.

(c) Standards for Development in the General Floodplain District.

Article III applies to floodway areas, Article IV applies to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
 - A. at or above the flood protection elevation; or
 - B. two (2) feet above the highest adjacent grade around the structure; or
 - C. the depth as shown on the FIRM
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around the structures.

(d) Determining Floodway and Floodfringe Limits.

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - A. A Hydrologic and Hydraulic Study as specified in s. 51-81(b)(3).
 - B. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - C. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Sec. 51-62 to 70. Reserved.

ARTICLE VI.

NON-CONFORMING USES

Sec. 51-71. General.

- (a) Applicability.

If these standards conform with §59.69(10), Wis. Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use, which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" includes, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 51-47(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 51-47(a).
- (6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 51-47(a).
- (7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is

considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal Code requirements below are met and all required permits have been granted prior to the start of construction.

A. Residential Structures.

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 51-85(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 51-61(1).
6. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

B. Nonresidential Structures.

1. Shall meet the requirements of s. 51-71(b)(8)A.1-2 and 5-6.
2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 51-85(a) or (b).
3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards of s. 51-61(c)(1).

- (c) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 51-33(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 51-85 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 51-71(b)(8)A. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

Sec. 51-72. Floodway District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (1) Has been granted a permit or variance, which meets all ordinance requirements;
 - (2) Meets the requirements of s. 51-71;
 - (3) Shall not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to s. 51-85, by means other than the use of fill, to the flood protection elevation; and
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - A. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - B. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - C. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - D. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 51-85(c) and ch. SPS 383, Wis. Adm. Code.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 51-85(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

Sec. 51-73. Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 51-47 except where s. 51-73(b) is applicable.
- (b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment, using the procedures established in s. 51-83, may grant a variance from those provisions of par. (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, shall not be installed;

- (4) Flood depths shall not exceed two feet;
 - (5) Flood velocities shall not exceed two feet per second; and
 - (6) The structure shall not be used for storage of materials as described in s. 51-47(e).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, s. 51-85(c) and ch. SPS 383, Wis. Adm. Code.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 51-85(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

Sec. 51-74 to 79, Reserved.

ARTICLE VII.

ADMINISTRATION

Sec. 51-80. Administration.

Where a Zoning Administrator, planning agency or a Board of Adjustment has already been appointed to administer a zoning ordinance adopted under §§59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

Sec. 51-81. Zoning Administrator.

- (a) Duties and Powers.

The Zoning Administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspects properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
 - A. All permits issued, inspections made, and work approved.
 - B. Documentation of certified lowest floor and regional flood elevations.
 - C. Floodproofing certificates.
 - D. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - E. All substantial damage assessment reports for floodplain structures.
 - F. List of nonconforming structures and uses.

- (5) Submit copies of the following items to the Department Regional office:
 - A. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
 - B. Copies of case-by-case analyses and any other required information including an annual summary of floodplain zoning actions taken.
 - C. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (7) Submit copies of amendments and biennial reports to the FEMA Regional office.
- (b) Land Use Permit.

A Land Use Permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:

(1) GENERAL INFORMATION.

- A. Name and address of the applicant, property owner and contractor.
- B. Legal description, proposed use, and whether it is new construction or a modification.

(2) SITE DEVELOPMENT PLAN.

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- A. Location, dimensions, area and elevation of the lot;
- B. Location of the ordinary highwater mark of any abutting navigable waterways;
- C. Location of any structures with distances measured from the lot lines and street centerlines;
- D. Location of any existing or proposed on-site sewage systems or private water supply systems;
- E. Location and elevation of existing or future access roads;
- F. Location of floodplain and floodway limits as determined from the official Floodplain Zoning Maps;
- G. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- H. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Article III or Article IV are met; and

- I. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 51-17 . This may include any of the information noted in s. 51-33(a).

(3) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT.

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

A. Zone A Floodplains:

1. Hydrology.
 - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
2. Hydraulic Modeling.

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

 - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. channel sections must be surveyed.
 - iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. the most current version of HEC RAS shall be used.
 - vi. a survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed food profile and the existing study profiles shall be no more than 0.00 feet.
3. Mapping.

A work map of the reach studies shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

 - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

B. Zone AE Floodplains.

1. Hydrology.

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic Model.

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model.

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model.

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.

The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

3. Mapping.

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(4) EXPIRATION.

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) Certificate of Compliance.

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed; and
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect the requirements of s. are met.

(d) Other Permits.

Prior to obtaining a floodplain development permit, the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Sec. 51-82. Zoning Agency.

(a) The Planning, Zoning and Land Information Department shall:

- (1) oversee the functions of the office of the Zoning Administrator; and
- (2) review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(b) The zoning agency shall not:

- (1) grant variances to the terms of the ordinance in place of action by the Board of Adjustment; or

- (2) amend the text or zoning maps in place of official action by the governing body.

Sec. 51-83. Board of Adjustment.

The Board of Adjustment created under §59.694, Wis. Stats. is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator shall not be the secretary of the Board.

(a) POWERS AND DUTIES.

The Board of Adjustment shall:

- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- (2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official Floodplain Zoning Map; and
- (3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(b) APPEALS TO THE BOARD.

- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a Notice of Appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

(2) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES:

A. Notice - The Board shall:

1. Fix a reasonable time for the hearing;
2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

B. Hearing - Any party may appear in person or by agent. The Board shall:

1. Resolve boundary disputes according to s. 51-83(c);
2. Decide variance applications according to s. 51-83(d); and
3. Decide appeals of permit denials according to s. 51-84.

(3) DECISION: The final decision regarding the appeal or variance application shall:

- A. Be made within a reasonable time;
- B. Be sent to the Department Regional office within 10 days of the decision;

- C. Be a written determination signed by the chairman or secretary of the Board;
- D. State the specific facts, which are the basis for the Board's decision;
- E. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismisses the appeal for lack of jurisdiction or grant or deny the variance application; and
- F. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) BOUNDARY DISPUTES.

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the Planning, Zoning and Farmland Preservation Committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 51-94.

(d) VARIANCE.

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - A. Literal enforcement of the ordinance will cause unnecessary hardship;
 - B. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - C. The variance is not contrary to the public interest; and
 - D. The variance is consistent with the purpose of this ordinance in s. 51-3.
- (2) In addition to the criteria in subd. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - A. The variance may not cause any increase in the regional flood elevation;
 - B. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 - C. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

- (3) A variance shall not:
 - A. Grant, extend or increase any use prohibited in the zoning district;
 - B. Be granted for a hardship based solely on an economic gain or loss;
 - C. Be granted for a hardship, which is self-created;
 - D. Damage the rights or property values of other persons in the area;
 - E. Allow actions without the amendments to this ordinance or map(s) required in s. 51-95; and
 - F. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

Sec. 51-84. To Review Appeals of Permit Denials.

- (a) The Board shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in s. 51-81(b);
 - (2) Floodway/floodfringe determination data in s. 51-61(c);
 - (3) Data listed in s. 51-33(a)(2) where the applicant has not submitted this information to the Zoning Administrator; and
 - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
 - (1) Follow the procedures of s. 51-83;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
 - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 51-95; and
 - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

Sec. 51-85. Floodproofing Standards for Nonconforming Structures or Uses.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (1) certified by a registered professional engineer or architect; or
 - (2) meets or exceeds the following standards:
 - A. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - B. the bottom of all openings shall be no higher than one foot above grade; and
 - C. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Minimize or eliminate infiltration of flood waters; and.
 - (5) Minimize or eliminate discharges into flood waters.

Sec. 51-86. Public Information.

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

Sec. 51-87. Fee Schedule.

All persons, firms, or corporations performing work, which by this ordinance shall require the issuance of a land use permit or the holding of a public hearing, shall pay a fee for such to the County Planning, Zoning and Land Information Department to defray the cost of administration, investigation, processing and legally required advertising. The fees are established in the Calumet County Planning, Zoning and Land Information Department Fee Schedule. All fees are non-refundable.

Sec. 51-88 to 93, Reserved.

ARTICLE VIII.

AMENDMENTS

Sec. 51-94. Amendments.

- (a) Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles in accordance with s. 51-95.
 - (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines and water surface profiles, in accordance with s. 51-95. Any such alterations must be reviewed and approved by FEMA and the DNR.
 - (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 51-95.

Sec. 51-95. General.

- (a) The County Board of Supervisors shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 51-96 below. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:
 - (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
 - (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
 - (3) Any changes to any other officially adopted floodplain maps listed in s. 51-5(b)(2);
 - (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - (5) Correction of discrepancies between the water surface profiles and floodplain maps;
 - (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
 - (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Sec. 51-96. Procedures.

- (a) Ordinance amendments may be made upon petition of any party according to the provisions of §59.69, Stats. The petition shall include all data required by ss. 51-61(d) and 51-81(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
 - (1) The proposed amendment shall be referred to the Planning, Zoning and Farmland Preservation Committee for a public hearing and recommendation to the Calumet County Board of Supervisors. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of §59.69, Stats.
 - (2) No amendments shall become effective until reviewed and approved by the Department.

- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the Calumet County Board of Supervisors.

Sec. 51-97 to 109, Reserved.

ARTICLE IX.

ENFORCEMENT AND PENALTIES

Sec. 51-110. Enforcement and Penalties.

Any violation of the provisions of this ordinance by any person shall be unlawful and may be referred to the Corporation Counsel who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the County a penalty of not less than \$10 and not more than \$1,000, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the county, the state, or any citizen thereof pursuant to §87.30, Stats.

Sec. 51-111 to 119, Reserved.

ARTICLE X.

DEFINITIONS

Sec. 51-120. Definitions.

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- 1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2) "AH ZONES" – See "AREA OF SHALLOW FLOODING".
- 3) "AO ZONES" – See "AREA OF SHALLOW FLOODING".
- 4) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- 5) "ALTERATION" – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
- 6) "AREA OF SHALLOW FLOODING" – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- 7) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

- 8) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 9) "BUILDING" - See "STRUCTURE".
- 10) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- 11) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- 12) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
- 13) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- 14) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 15) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- 16) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 17) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 18) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 19) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 20) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 21) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 22) "FLOOD INSURANCE RATE MAP (FIRM)" - A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

- 23) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- ✓ The overflow or rise of inland waters;
 - ✓ The rapid accumulation or runoff of surface waters from any source;
 - ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 24) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 25) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 26) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- 27) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 28) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 29) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 30) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 31) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 32) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 33) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: "FREEBOARD".)
- 34) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

- 35) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 36) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- 37) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 38) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 39) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 40) "HIGHEST ADJACENT GRADE" – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 41) "HISTORIC STRUCTURE" - Any structure that is either:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 42) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 43) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see "DEVELOPMENT".)
- 44) "LOWEST ADJACENT GRADE" – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 45) "LOWEST FLOOR" – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

- 46) "MAINTENANCE" – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- 47) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 48) "MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION" – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- 49) "MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING" – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 50) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 51) "MODEL, CORRECTED EFFECTIVE" – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- 52) "MODEL, DUPLICATE EFFECTIVE" – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- 53) "MODEL, EFFECTIVE" – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- 54) "MODEL, EXISTING (PRE-PROJECT)" – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- 55) "MODEL, REVISED (POST-PROJECT)" – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- 56) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 57) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" –Elevations referenced to mean sea level datum, 1988 adjustment.
- 58) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 59) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of

determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

- 60) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 61) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 62) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 63) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 51-5(b), which has been approved by the Department and FEMA.
- 64) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 65) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 66) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 67) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 68) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 69) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 70) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 71) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the

actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 72) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 73) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 74) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 75) "SUBSTANTIAL IMPROVEMENT" – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety Code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 76) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 77) "VARIANCE" - An authorization by the Board of Adjustment for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 78) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 79) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 80) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 81) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord. No. 2006-02, 6-20-2006, Ord No. 2008-09, 12-16-2008; Ord. No. 2012-01, 4-17-2012; Ord. No. 2017-01, 7-18-2017; Ord. No. 2017-07 (replaces 2017-01 due to re-publication requirements).)

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**ARTICLE I.
IN GENERAL**

Sec. 52-1. Statutory Authorization.

This ordinance is adopted pursuant to the authorization in s. 59.692, Stats, to implement 59.692 and 281.31, Stats.

Sec. 52-2. Title.

This chapter shall be known as the "Calumet County Shoreland Zoning Ordinance", hereinafter referred to as "this chapter".

Sec. 52-3. Finding of Fact.

Uncontrolled use of the shorelands and pollution of the navigable waters of Calumet County will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Calumet County, Wisconsin.

Sec. 52-4. Purpose and Intent.

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters, this ordinance has been established to:

- (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

- (1) Limiting structures to those areas where soil and geological conditions will provide a safe

foundation.

- (2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
 - (3) Controlling filling and grading to prevent soil erosion problems.
 - (4) Limiting impervious surfaces to control runoff which carries pollutants.
- (b) Protect spawning grounds, fish and aquatic life through:
- (1) Preserving wetlands and other fish and aquatic habitat.
 - (2) Regulating pollution sources.
 - (3) Controlling shoreline alterations, dredging and lagooning.
- (c) Control building sites, placement of structures and land uses through:
- (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - (2) Setting minimum lot sizes and widths.
 - (3) Setting minimum building setbacks from waterways.
 - (4) Setting the maximum height of near shore structures.
- (d) Preserve and restore shoreland vegetation and natural scenic beauty through:
- (1) Restricting the removal of natural shoreland cover.
 - (2) Preventing shoreline encroachment by structures.
 - (3) Controlling shoreland excavation and other earth moving activities.
 - (4) Regulating the use and placement of boathouses and other structures.

Sec. 52-5. Definitions.

- (a) The following terms used in this ordinance mean:
- (1) “Access and viewing corridor” means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.
 - (2) “Boathouse” means a permanent structure which is accessible by boats from navigable water, and is designed, constructed, and used solely for the purpose of storing or protecting boats and other water related recreational materials, and is used in conjunction with a principal use on a property.
 - (3) “Building” means an enclosed structure, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and which is affixed to

the ground.

- (4) "Building envelope" means the three dimensional space within which a structure is built.
- (5) "County zoning agency" means that committee or commission created or designated by the county board under s. 59.69(2)(a), Stats, to act in all matters pertaining to county planning and zoning.
- (6) "Department" means the Wisconsin Department of Natural Resources.
- (7) "Existing development pattern" means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.
- (8) "Floodplain" means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.
- (9) "Generally accepted forestry management practices" means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.
- (10) "Impervious surface" means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.
- (11) "Maintenance and Repair" means such activities as interior remodeling, exterior remodeling, and the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.
- (12) "Mitigation" means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.
- (13) "Navigable waters" means Lake Winnebago and all other natural lakes in the county, all streams, ponds, sloughs, flowages and other waters within the territorial limits of the county, which are navigable under the laws of the state. Under s. 281.31(2)(d), Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to:
 - A. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
 - B. Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

- (14) "Nonconforming lot" means a lot which, in its most recent configuration, does not contain sufficient area and/or width to meet the criteria of section 52.49.
- (15) "Nonconforming structure" means any building or structure, other than a sign, legally established prior to the effective date of this chapter or subsequent amendments thereto, which does not fully comply with the requirements imposed by the individual sections of this chapter that pertain to the size, height, location, setback, lot coverage and similar characteristics of structures.
- (16) "Nonconforming use" means any use of structures, land, or water, which was lawfully established at the time of the effective date of this chapter or subsequent amendments thereto, which does not fully comply with the use requirements imposed by this chapter.
- (17) "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (18) "Regional flood" means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
- (19) "Routine maintenance of vegetation" means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.
- (20) "Shoreland" means lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (21) "Shoreland setback" also known as the "Shoreland setback area" in Wis. Stats. 59.692(1)(bn), Stats, means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted Wis. Stats. 59.69.
- (22) "Shoreland-wetland district" means a zoning district, created as a part of this county zoning ordinance, comprised of shorelands that are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.
- (23) "Special exception (conditional use)" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Zoning Board of Adjustment or, where appropriate, the planning and zoning committee or county board.
- (24) "Structure" means a principal structure or any accessory structure constructed, erected, manufactured, or moved, the use of which requires a more or less permanent location on or in the ground, including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.
- (25) "Unnecessary hardship" means that circumstance where special conditions, which were

not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

- (26) "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (27) "Zoning Administrator" an employee of Calumet County under the direction of the Director of the Planning, Zoning and Land Information Department responsible for the administration of this ordinance. Also referred to as Code Administrator.
- (b) For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

Sec. 52-6 - 52-10. Reserved.

ARTICLE II. GENERAL PROVISIONS

Sec. 52-11. Force and Effect.

Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Calumet County, which are:

- (a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Calumet County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 "Wisconsin Lakes" book or are shown on United States Geological Survey quadrangle maps (1:24,000 scale).
- (b) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Calumet County shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000 scale).
- (c) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas within Calumet County. Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stats. 61.353 and 62.233.
- (d) Determinations of navigability and ordinary high-water mark determination shall initially be made by the code administrator. When questions arise, the code administrator shall contact the appropriate office of the Department for a final determination of navigability or ordinary high-water mark. The county may work with surveyors to identify ordinary high-water mark locations in accordance with Wis. Stats. 59.692(1h).

(e) Notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:

(1) Lands adjacent to farm drainage ditches if:

A. Such lands are not adjacent to a natural navigable stream or river.

B. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.

(2) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

Sec. 52.12. Shoreland-Wetland Maps.

The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>

Sec. 52-13. Compliance.

The use of any land; the size, shape and placement of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, and dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. Buildings and other structures shall require a zoning permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

(a) The Code Administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as required by provisions of federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and may, where practicable, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility

Sec. 52.14. Municipalities and State Agencies Regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when Wis. Stats. 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. 30.2022(1) applies.

Sec. 52-15. Abrogation and Greater Restrictions.

The provisions of this ordinance supersede any provisions in the Calumet County General Zoning Ordinance that solely relate to shorelands. If a zoning standard only applies to lands within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute, other than Wis. Stats. 59.692, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that

ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (a) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (b) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions.
- (c) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (d) This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 52.4 of this ordinance.
- (e) This Shoreland Zoning Ordinance shall not be construed to require any of the following:
 - (1) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - (2) Requires an inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (f) The construction and maintenance of a facility as defined in Wis. Stat. 196.01 (5), or a cooperative association organized under Ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power, is considered to satisfy the requirements of this ordinance if the department has issued all required permits or approvals authorizing the construction or maintenance of the facility under ch. 30, 31, 281, or 283 of the Wisconsin Administrative Code.

Sec. 52-16. Relation to County Comprehensive Zoning and Town Zoning.

- (a) In a town where the Calumet County Comprehensive Zoning is in effect:
 - (1) The provisions of the Calumet County Zoning Ordinance are hereby incorporated by reference as if set forth in full.
 - (2) The provisions of the Calumet County Zoning Ordinance apply and may be enforced in shorelands to the extent that its provisions do not regulate a shoreland zoning standard consistent with Wis. Stat. 59.692(1)(c) and (1d).
- (b) In any town where the Calumet County Comprehensive Zoning Ordinance is not in effect, the regulation of matters that are not shoreland zoning standards consistent with 59.692(1)(c) and (1d) but which serve to control building sites are as follows:
 - (1) Setback Requirements and Related Restrictions

A. Road.

1. Public Road. No structure shall be placed within 25 feet of the road right of way.
2. Private Road. No structure shall be placed within 25 feet of the traveled edge of a private road.
3. A reduced road setback shall be permitted for a proposed accessory structure and shall be determined as follows.

(A) Where there are existing accessory structures in both directions, the setback shall equal the average of the distances that the two existing accessory structures are set back from the road, provided that both structures are located on adjacent lots and are located within 250' of the proposed accessory structure.

(B) Where there is an existing accessory structure in only one direction on an adjacent lot, and that structure is within 250' of the proposed accessory structure, the setback shall equal the average of the setback of the existing accessory structure and the required setback listed in 52.16 A.1. or 52.16 A.2.

B. Property / Parcel Boundaries.

1. Principal Structure Setback. Principal structures shall be placed a minimum of 10 feet from a side yard.
2. Accessory Structure Setback. Accessory structures shall be placed a minimum of 5 feet from a side yard. Fences less than 8 feet in height are exempt from property line setbacks.

C. Height. No structure located 75 feet or further from the ordinary high water mark shall be taller than 35 feet.

D. Public utilities, satellite dishes or antennas, or other utility structures that have no feasible alternative location outside the minimum setbacks are exempt from property line and road setbacks identified in this section.

E. Lateral expansions and vertical expansions up to 35 feet in height of a nonconforming structure under this section are permitted if the expansion does not further infringe into the side yard or road setback and all shoreland zoning standards in this chapter are satisfied. All shoreland zoning standards in this Ordinance take precedent over non shoreland zoning standards identified in this section.

F. Minor structures such as birdhouses, birdbaths, clothesline poles, flagpoles, doghouses, play apparatus, pumps, lawn ornaments, mailboxes, garbage containers, and school bus waiting shelters are exempt from road and side yard setback requirements listed in 52.16 (b) (1) as long as all shoreland zoning standards in this Ordinance are satisfied.

(2) The standards set forth in section 52.16 (b) shall be construed to be the minimum standards. Non-shoreland zoning standards contained in a Town Zoning Ordinance shall be applied if

more restrictive.

Sec. 52-17. Interpretation.

In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by statute and a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the statute and ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

Sec. 52-18. Severability.

If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Sec. 52-19 - 52-22. Reserved.

**ARTICLE III.
SHORELAND-WETLAND DISTRICT**

Sec. 52.23. Designation.

This district includes all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural Resources Surface Water Data Viewer. Where a discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

Sec. 52.24. Purpose.

This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

Sec. 52.25. Permitted Uses.

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30, 31, and 281.36, Stats, and the provisions of other applicable local, state and federal laws:

- (a) Activities and uses which do not require the issuance of a zoning permit, but which must be

carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:

- (1) Hiking, fishing, trapping, hunting, swimming, and boating.
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 - (3) The pasturing of livestock.
 - (4) The cultivation of agricultural crops.
 - (5) The practice of silviculture, including the planting, thinning, and harvesting of timber.
 - (6) The construction and maintenance of duck blinds.
- (b) Uses which do not require the issuance of a shoreland zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
- (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - (2) The cultivation of cranberries, including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries.
 - (3) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible.
 - (4) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 - (5) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 - (6) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (1) The construction and maintenance of roads, which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

- A. The road cannot as a practical matter be located outside the wetland.
- B. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 52.27 (b).
- C. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
- D. Road construction activities are carried out in the immediate area of the roadbed only.

(2) The construction or maintenance of nonresidential buildings, provided that:

- A. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
- B. The building cannot, as a practical matter, be located outside the wetland.
- C. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area.
- D. Only limited filling or excavating necessary to provide structural support for the building is authorized.

(3) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

- A. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Stats, where applicable.
- B. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 55.25 (c) (1).
- C. Ditching, excavating, dredging, or dike and dam construction, in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

(4) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, and the construction or maintenance of railroad lines, provided that:

- A. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
- B. Such construction or maintenance is done in a manner designed to minimize

adverse impact upon the natural functions of the wetland enumerated in section 52.27 (b).

Sec. 52-26. Prohibited Uses.

Any use not listed in sections 52.25 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 52.27 of this ordinance and s. 59.69(5)(e), Stats.

Sec. 52-27. Rezoning of Lands in the Shoreland-Wetland District.

- (a) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:
 - (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five (5) days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland.
 - (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
 - (3) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board.
 - (4) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.
- (b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (1) Storm and flood water storage capacity.
 - (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
 - (4) Shoreline protection against soil erosion.
 - (5) Fish spawning, breeding, nursery or feeding grounds.
 - (6) Wildlife habitat.
 - (7) Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04, Wis. Adm. Code, which can be accessed at the following web site:

- (c) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 52-27 (b) of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

- (1) "This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6), Stats, adoption procedure is completed or otherwise terminated."

Sec. 52-28 - 52-32. Reserved.

**ARTICLE IV.
LAND DIVISION REVIEW AND SANITARY REGULATIONS.**

Sec. 52-33. Land Division Review.

The county shall review, pursuant to s. 236.45, Stats, all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each, or less, within a 5-year period. In such review, all of the following factors shall be considered:

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters, as required by law.
- (d) Adequate stormwater drainage facilities.
- (e) Conformity to state law and administrative code provisions.

Sec. 52.34. Planned Unit Development (PUD).

- (a) The Calumet County Planning, Zoning and Farmland Preservation Committee may approve a Planned Unit Development upon petition and after a public hearing, if all of the following exist:
- (1) The area proposed for the Planned Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
 - (2) Any proposed lot in the Planned Unit Development that does not meet the minimum size standards of section 52-41 shall be a non-riparian lot.

- (3) The proposed PUD provides lot sizes, widths, and setbacks that are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways.
- (4) The proposed PUD provides increased shoreland setbacks as a way of minimizing adverse impacts of development. Shore cover provisions in section 52.53 shall apply, except that maximum width of a lake frontage opening shall be 100 feet, and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.
- (5) The proposed PUD provides for smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover, than would be expected if the lots were developed with the normal lot sizes and setbacks, and without special conditions placed upon the Planned Unit Development.
- (6) The proposed PUD provides for the preservation of certain open space, preferably on the shoreland, in perpetuity.

Sec. 52.35. Sanitary Regulations.

The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (a) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Adm. Code.
- (b) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall be required to comply with ch. SPS Comm. 383, Wis. Adm. Code and Chapter 72 – Utilities of the Calumet County Code.

Sec. 52-36 - 52-40. Reserved.

ARTICLE V LOT REQUIREMENTS.

Sec. 52.41. Minimum Lot Size.

Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

- (a) The minimum lot dimensions for all sewered lots shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.
- (b) The minimum lot dimensions for all unsewered lots shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.
- (c) The width for both sewered and unsewered lots shall be calculated by averaging the measurements at the following locations:
 - (1) The ordinary high water mark.

- (2) The building setback line.
- (3) The rear lot line.
- (d) Substandard lots legally created that meet minimum area and minimum average width requirements when created, but do not meet current lot size requirements, may be used as a building site if all of the following apply:
 - (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - (2) The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - (3) The substandard lot or parcel is developed to comply with all other ordinance requirements.
- (e) Other Substandard Lots. Except for lots, which meet the requirements of section 52.41(d) a building permit for the improvement of a lot having lesser dimensions than those stated in sections 52.41(a) and (b) shall be issued only if a variance is granted by the Board of Adjustment.

Sec. 52-42 - 52-46. Reserved.

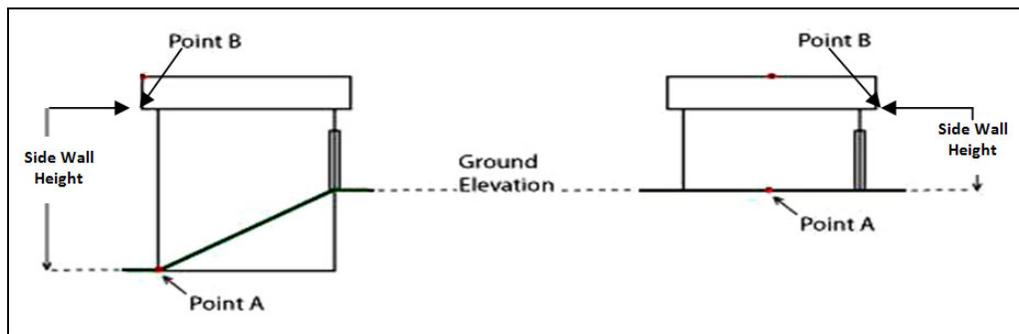
ARTICLE VI. SETBACKS

Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

Sec. 52.47. Shoreland Structure Setbacks.

Unless exempt under section 52.47 (a), or reduced under section 52.48, a setback of 75 feet from the ordinary high-water mark of any navigable water to the nearest part of a building wall or structure shall be required for all buildings and structures.

- (a) EXEMPT STRUCTURES. All of the following structures are exempt from the shoreland setback standards:
 - (1) Boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation under the following conditions:
 - A. The boathouse side wall height shall be at least 8 feet in height but shall not exceed 10 feet height. In special circumstances a boathouse side wall may exceed 10 feet but shall not exceed 15 feet if the code administrator determines the side wall of the proposed boathouse in excess of 10 feet will not exceed the existing grade at the wall opposite of the high water mark. Height measurements shall be taken as follow:



- B. The footprint of the boathouse shall not exceed 600 square feet in area.
 - C. Boathouses shall have a roof pitch of 2% or 2.5 inches per 10 feet or less.
 - D. Boathouses shall not exceed one story. Multiple level boathouses shall be prohibited.
 - E. The roof, as a structural component of a boathouse, may be used as a deck, provided it has a flat roof with no side walls or screens. The roof may have a railing that meets the Department of Safety and Professional Services standards.
 - F. Impervious surface standards identified in Article IX apply.
 - G. The land altered or disturbed to erect the boathouse shall be disturbed in the least invasive manner, and, after construction, shall be restored to its pre-construction state.
 - H. Only one (1) boathouse is permitted per lot.
- (2) Open-sided and screened structures such as gazebos, decks, patios and screen houses, in the shoreland setback area that satisfy the requirements in Wis. Stats. 59.692(1v):
- A. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
 - B. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
 - C. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
 - D. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The plan shall be evidenced by an instrument recorded in the Register of Deeds office.
 - E. The statutory requirement under this section, which requires the establishment of a vegetative buffer for the construction of open sided structures, is not superseded by s. 59.692(1f)(a).

- (3) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
- (4) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS Comm. 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback, and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.
- (5) One (1) open walkway, stairway or rail system that is necessary to provide pedestrian access to the shoreline and are a maximum of 60 inches in width.
 - A. The walkway, stairway or rail system shall be located within the access and viewing corridor.
 - B. Landings are permitted and shall not exceed 32 square feet in total area.
- (6) Devices or systems used to treat runoff from impervious surfaces.
 - (b) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled, provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. The County may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
 - (c) Setback as identified in Section 52.16 shall apply.

Sec. 52.48. Setback Averaging.

A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

- (a) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark, provided all of the following are met:
 - (1) Both of the existing principal structures are located on adjacent lots to the proposed principal structure.
 - (2) Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 - (3) Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - (4) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
- (b) Where this is an existing principal structure in only one direction, the setback shall equal the average of the distance the existing principal structure is set back from the ordinary high water

mark, and the required setback of 75' from the ordinary high water mark, provided all of the following are met:

- (1) The existing principal structure is located on adjacent lot to the proposed principal structure.
- (2) The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
- (3) The existing principal structure is located less than 75' from the ordinary high water mark.
- (4) The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.

Sec. 52.49. Floodplain Structures.

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with Chapter 51 – Floodplain of the Calumet County Code of Ordinances.

Sec. 52-50 - 52-54. Reserved.

**ARTICLE VII.
VEGETATION**

Sec. 52.55. Purpose.

To protect natural scenic beauty, fish and wildlife habitat, and water quality, Calumet County shall regulate removal of vegetation in shoreland areas that establish standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

Sec. 52.56. Activities Allowed Within A Vegetative Buffer Zone.

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, Calumet County designates land that extends from the ordinary high water mark, to a minimum of 35 feet inland, as a vegetative buffer zone, and prohibits removal of vegetation in the vegetative buffer zone except as follows:

- (a) Routine maintenance of vegetation.
- (b) Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per Wis. Stats. 59.692(1f)(b), the viewing corridor may be up to 35 feet wide for every 100 feet of shoreline frontage. Viewing corridors may run contiguously for the entire maximum width allowed.
- (c) Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in

the same area as soon as practicable.

- (d) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices,” as defined in s. NR 1.25 (2) (b), Wis. Adm. Code, and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
- (e) The shoreland zoning permit issued under this section shall require that all management activities comply with detailed plans approved by the county, and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
- (f) The county may authorize, by conditional use permit, additional vegetation management activities in the vegetative buffer zone. All efforts should be used to maintain the existing native vegetation and topography in the buffer zone.

Sec. 52-57 - 52-61. Reserved.

ARTICLE VIII. FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

Sec. 52.62. Permit Required.

- (a) A shoreland zoning permit shall be required for any filling, grading, lagooning, dredging, ditching, or excavating of any area within 300 feet horizontal distance of navigable water if:
 - (1) The filling, grading, lagooning, dredging, ditching, or excavating exceeds 2,000 square feet on slopes of less than 12 percent.
 - (2) The filling, grading, lagooning, dredging, ditching, or excavating exceeds 1,000 square feet on slopes of 12 to 20 percent.
 - (3) The filling, grading, lagooning, dredging, ditching, or excavating is on slopes of more than 20 percent.
 - (4) Proper surface water drainage is identified and maintained and the resultant excavation causes no hardship to adjoining property owners.
- (b) A shoreland zoning permit is required under 52.62 (a) for the filling, grading, lagooning, dredging, ditching, excavating, or land disturbance shall be granted only upon finding that the proposed activity would not result in detriment to navigable water by reason of erosion, sedimentation, or impairment of fish and aquatic life, nor alter any wetland, and would be designed and constructed in accordance with standards contained in the United States Department of Agriculture/Soil Conservation Service/Wisconsin Section 4 Technical Guide
- (c) This section shall not apply to planting, growing, cultivating and harvesting agricultural crops, installation of public utilities or sanitary waste disposal systems, or construction of public roads

and walkways, nor projects authorized by state or federal agencies under Wis. Stats. § 30.19. No shoreland zoning permit shall be required if an erosion control permit has been issued under chapter 10 by the Calumet County Land and Water Conservation Department.

- (d) Excavation as part of, and incidental to, a project authorized by a separate permit issued by the Code Administrator is exempt from permit requirements listed in 52.62.
- (e) Filling and grading of a 35 foot vegetative buffer that is currently vegetated in natural vegetation, shrubs, and trees is prohibited.

Sec. 52-63 - 52-67. Reserved.

ARTICLE IX. IMPERVIOUS SURFACE STANDARDS

Sec. 52.68. Purpose.

To establish impervious surface standards that protect water quality, fish and wildlife habitat, and, to protect against pollution of navigable waters in Calumet County. Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation, of any impervious surface on a riparian lot or parcel, and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

Sec. 52.69. Calculation of Percentage of Impervious Surface.

The percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark, by the total surface area of that lot or parcel, and multiplied by 100. Treated Impervious Surfaces described in section 52.73 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel, and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

- (a) For condominium or multiunit properties, the impervious surface calculations apply to the entire property if said property is described under one legal description.

Sec. 52.70. General Impervious Surface Standard.

Except as otherwise allowed in sections 52.71 through 52.73, the county shall allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

- (a) The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

Sec. 52.71. Impervious Surface Standard for Highly Developed Shorelines.

Highly Developed Shorelines may be developed allowing up to 30% for residential land use and up to

40% for commercial, industrial, or business land uses where the majority of the existing lots, as of the effective date of this ordinance, contain less than 20,000 square feet in area. Highly Developed Shorelines are identified on the Highly Developed Shorelines Map included in this Ordinance.

Sec. 52.72. Maximum Impervious Surface Standard.

A property may exceed the impervious surface standard under section 52.70 or 52.71, provided a mitigation plan is approved per 52.105 and the following standards are met:

- (a) For properties where the general impervious surface standard applies under section 52.70, a property owner may have more than 15% impervious surface, but not more than 30% impervious surface, on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark with the accumulation of six (6) mitigation points as identified in 52.97 (e)
- (b) For properties where the impervious surface standard for highly developed shorelines applies under 52.71, a property owner may have more than 30% impervious surface, but not more than 40% impervious surface for residential land uses; or for commercial, industrial or business land uses, a property owner may have more than 40% impervious surface, but not more than 60% impervious surface with the accumulation of six (6) mitigation points as identified in 52.97 (e).

Sec. 52.73. Treated Impervious Surfaces.

Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under section 52.70:

- (a) The impervious surface is treated by devices, such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems.
- (b) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff, on or off the parcel, and allows infiltration into the soil.
- (c) The property owner must demonstrate that the runoff from an impervious surface is being treated with an appropriately designed system. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.

Sec. 52.74. Existing Impervious Surfaces.

For existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the impervious surface standard in this section, the property owner may do any of the following:

- (a) Maintain and repair the existing impervious surfaces.
- (b) Replace existing impervious surfaces with similar surfaces within the existing footprint or building envelope.
- (c) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the

impervious surface meets the applicable setback requirements in sections 52.47 or 52.48.

- (d) The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

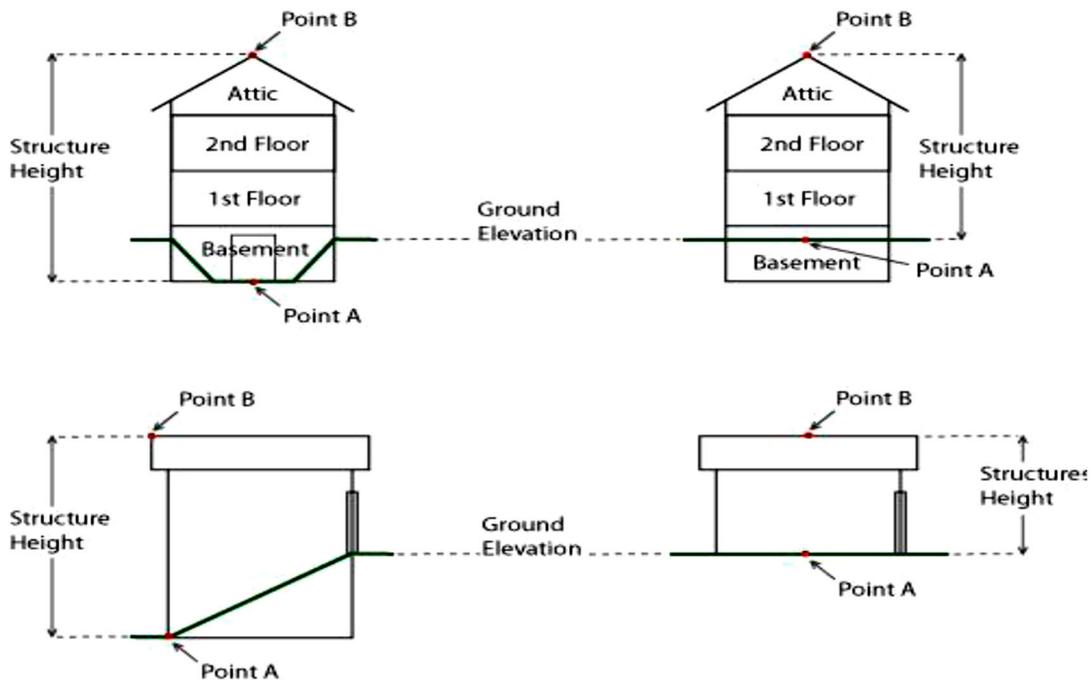
Sec. 52-75 - 52-79. Reserved.

ARTICLE X. HEIGHT

Sec. 52-80. Height.

To protect and preserve wildlife habitat and natural scenic beauty, no permitted or exempt structure may be taller than 35 feet, within 75 feet of the ordinary high-water mark of any navigable waters, unless specifically exempted by this ordinance. Structure height shall be measured in the following manner:

- (a) Height measurement shall be taken from the lowest exposed ground elevation of the proposed structure as illustrated below as "Point A".



Sec. 52-81 - 52-85. Reserved.

ARTICLE XI.

NONCONFORMING USES AND STRUCTURES

Sec. 52.86. Discontinued Nonconforming Use.

If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to all provisions of this ordinance.

Sec. 52.87. Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures.

An existing structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed, but that does not comply with the required shoreland setback, may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Although no mitigation plan or shoreland zoning permit is required for the maintenance, repair, replacement or vertical expansion of a nonconforming structure, a general floodplain or general zoning permit may still be required. Exempt structures and structures granted variances are not considered nonconforming structures.

Sec. 52.88. Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures Authorized by Variance.

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled, if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded, unless the vertical expansion would extend more than 35 feet above grade level. Although no mitigation plan or shoreland zoning permit is required for the maintenance, repair, replacement or vertical expansion of a nonconforming structure authorized by variance, a general floodplain or general zoning permit still may be required.

Sec. 52.89. Lateral Expansion of Nonconforming Principal Structures Within the Setback.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback per section 52.47, may be expanded laterally, provided that all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more, if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high water mark.
- (c) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark, than the closest point of the existing principal structure.
- (d) The county shall issue a shoreland zoning permit that requires a mitigation plan, approved by the county and implemented by the property owner, by the date specified in the permit. The mitigation plan shall meet the standards found in section 52.97.
- (e) Lateral expansions of nonconforming principal structures 200 square feet, or less, shall require

6 mitigation points as identified in 52.97 (e).

- (f) All other provisions of the shoreland ordinance shall be met.

Sec. 52.90. Expansion of Nonconforming Principal Structures Beyond Setback.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback under section 52.47, may be expanded horizontally, landward, or vertically, provided that the expanded area meets the building setback requirements, per section 52.47, and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 52.72.

Sec. 52.91. Relocation of Nonconforming Principal Structures.

An existing principal structure that was lawfully placed when constructed, but that does not comply with the required building setback per section 52.47, may be relocated on the property provided all of the following requirements are met:

- (a) The use of the structure has not been discontinued for a period of 12 months or more, if a nonconforming use.
- (b) The existing principal structure is at least 35 feet from the ordinary high water mark.
- (c) No portion of the relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.
- (d) The county determines that no other location is available on the property to build a principal structure of a comparable size, to the structure proposed, for relocation that will result in compliance with the shoreland setback requirement, per section 52.47.
- (e) The county shall issue a shoreland permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner, by the date specified in the permit. The mitigation plan shall meet the standards found in section 52.97.
- (f) Relocation shall require 6 mitigation points as identified in 52.97 (e)
- (g) All other provisions of the shoreland ordinance shall be met.

Sec. 52-92 - 52-96. Reserved.

**ARTICLE XII.
MITIGATION**

Sec. 52.97. Mitigation Plan.

Per section 52.69, a mitigation plan shall be required to increase the amount of allowable impervious surface on a parcel or lot, and for the lateral expansion, to a maximum of 200 square feet of a nonconforming principal structure, identified in 52.89, or the relocation of a nonconforming principal structure identified in 52.91. Where a mitigation plan is required by this chapter, the following shall

apply:

- (a) Mitigation plans must be approved by the County and implemented by the property owner.
- (b) Mitigation plans shall include enforceable obligations of the property owner to establish and/or maintain measures that the County determines adequate to offset the impacts of the proposal on water quality, near shore aquatic habitat, upland wildlife habitat, natural scenic beauty, and the view from the water.
- (c) The measures contained within the mitigation plan shall be proportional to the amount and impacts of the proposal being permitted.
- (d) The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the Register of Deeds office.
- (e) Mitigation points are assigned as follows:
 - (1) Code compliant POWTS: 1 pt.
 - (2) Properly abandon old, unused well: 1 pt.
 - (3) Fifteen (15) foot code compliant shoreline vegetation buffer: 2 pts.
 - (4) Additional ten feet of shoreline buffer: 1 pt. per. ten (10) feet of buffer depth.
 - (5) Voluntary reduction in 35 foot shoreland vegetation viewing corridor: 1 pt. per five feet reduced.
 - (6) No increase in impervious surface or stormwater runoff: 1 pt.
 - (7) Reduction in impervious surface: 2 pts. per five percent reduced.
 - (8) Removal of regulated nonconforming structures: 2 pts. per structure, which violates the water setback; 1 pt. per structure, which violates other code provisions.
 - (9) Relocation of principal structure, or replacement, to most code compliant location relative to water setback: 1 pt. for every ten (10) feet further from the water.
 - (10) Reduction of height of principal structure: 1 pt. per five feet reduced.
 - (11) No new outdoor flood lighting: 1 pt.

Sec. 52-98 - 52-102. Reserved.

ARTICLE XIII. ADMINISTRATIVE PROVISIONS

Sec. 52-103. Planning, Zoning and Farmland Preservation Committee.

The Planning, Zoning and Farmland Preservation Committee, created by the County Board of Supervisors, shall be the designated County Zoning Agency pursuant to Wis. Stats. § 59.69, 59.692(3) and 236.02(3).

- (a) The Planning, Zoning and Farmland Preservation Committee shall adopt and follow any governing rules of procedure as specified in Wis. Stats. § 59.69(2), and shall comply with the Wisconsin Open Meeting Law as specified in Wis. Stats. §§ 19.81 through 19.98.
- (b) Duties and powers. In administering this chapter, the duties and powers of the Planning, Zoning and Farmland Preservation Committee shall be as follows:
 - (1) Supervise the administration of this chapter.
 - (2) Exercise those duties and powers specified in Wis. Stats. § 59.69.
 - (3) Hold public hearings as required by this chapter, by the state statutes, or by its own motions.
 - (4) Submit recommendations to the County Board of Supervisors for or against proposed zoning text and map amendments.
 - (5) Issue or deny conditional use permits, and establish any conditions for such permits.
 - (6) Any other duties determined by the County Board of Supervisors.
- (c) Financial sureties.
 - (1) The Planning, Zoning and Farmland Preservation Committee may require that a performance bond or letter of credit be provided for the benefit of the County and filed with the County so as to ensure compliance with the terms of this chapter or required permit.
 - (2) Failure to provide or maintain such bond or letter of credit shall invalidate any permit.

Sec. 52-104. Zoning Board of Adjustment.

Therefore, a Zoning Board of Adjustment is established as authorized by Wis. Stats. § 59.694.

- (a) Membership.
 - (1) Size and appointment. The Zoning Board of Adjustment shall consist of five members and two alternate members, all appointed by the county administrator, and affirmed by the County Board of Supervisors.
 - (2) Eligibility. Members of the Zoning Board of Adjustment shall reside in the unincorporated areas of the county. No two members of the Zoning Board of Adjustment shall reside in the same town. Preference shall be given to members who reside in a town, which has adopted County zoning.
 - (3) Terms of office. The term of office shall be three years. However, these terms of office

shall be staggered such that no more than two member's terms of office are expired in any one year. Each term shall begin July 1.

- (4) Officers. The Zoning Board of Adjustment shall choose its own chairperson, vice-chairperson and recording secretary.
 - (5) Removal. Members may be removed by the chairperson of the County Board of Supervisors, for cause, upon written charges. Cause may include excessive absenteeism.
- (b) Operation and rules.
- (1) Adoption. The Zoning Board of Adjustment shall adopt rules for the conduct of its business, which shall be in accordance with the provisions of this chapter and Wis. Stats. § 59.69.
 - (2) Call to meetings. The Zoning Board of Adjustment shall meet at the call of the chair, and at such other time as the Zoning Board of Adjustment may determine, at a fixed time and place.
 - (3) Open meetings. All meetings of the Zoning Board of Adjustment shall be open to the public, unless authorized by state law.
 - (4) Minutes. The Zoning Board of Adjustment 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 examination and other official actions, all of which shall be public record.
 - (5) Assistance. In the case of all appeals, the Zoning Board of Adjustment may call upon the Planning, Zoning and Farmland Preservation Committee for all information pertinent to the decision appealed from.
 - (6) Quorum. The quorum for any meeting shall consist of three members.
 - (7) Oaths. The chair may administer oaths and compel the attendance of witnesses.
- (c) Powers. The Zoning Board of Adjustment shall have the following powers:
- (1) Appeals. Unless restricted elsewhere in this Code, to hear and decide appeals, pursuant to Wis. Stats. § 59.69, where it is alleged there is error in any order, requirement, decision or determination made by the Code Administrator or the Planning, Zoning and Farmland Preservation Committee. In exercising the above mentioned powers, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, which is the subject of the appeal and to that end, shall have all the powers of the committee or officer from whom the appeal is taken.
 - (2) Variances. To hear and authorize, upon appeal, in specific cases such variance from the terms of this chapter, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. Such variance shall not have the effect of permitting in any district a use that is prohibited in that district.

- (3) To grant variances for renewable energy facilities as provided in Wis. Stats. § 59.69(7)(d).

Sec. 52-105. Administrative Staff.

- (a) Planning, Zoning and Land Information Department Director. In administering this chapter, the Planning, Zoning and Land Information Director shall possess the following duties and powers:
 - (1) Oversee the Code Administrator in carrying out the assigned responsibilities of this chapter.
 - (2) Make necessary studies relevant to deliberations regarding conditional use permits, as directed by the Planning, Zoning and Farmland Preservation Committee.
 - (3) Recommend to the Planning, Zoning and Farmland Preservation Committee amendments necessary to make this chapter more effective.
 - (4) Aid in the granting of waivers where this chapter gives specific authority for such waivers.
 - (5) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee.
- (b) Code Administrator. The Code Administrator shall possess the following duties and powers:
 - (1) Administer and enforce this chapter as the authorized representative of the Planning, Zoning and Farmland Preservation Committee.
 - (2) Provide to the public the necessary permit application and other forms relevant to this chapter. Assist the public in preparing applications and forms as necessary.
 - (3) Conduct all necessary on-site inspections and investigations of structures, lands, waters and uses to certify compliance with this chapter.
 - (4) Issue or deny shoreland zoning permits.
 - (5) Suspend or revoke shoreland zoning permits and/or issue cease and desist orders upon non-compliance with the terms of the permit and/or this chapter.
 - (6) Issue, deny, or revoke certificates of compliance.
 - (7) Investigate alleged zoning violations and give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises.
 - (8) Report uncorrected violations to the County Corporation Counsel and assist the Corporation Counsel in initiating enforcement proceedings. Issue citations as necessary.
 - (9) Gain entry to premises, buildings and structures during reasonable hours for the purpose of investigating applications for permit and for the purpose of determining compliance with this chapter or with any issued permit. If entry is refused after presentation of proper

identification, a special inspection warrant may be procured in accordance with Wis. Stats. § 66.0119(1) and (2).

- (10) Record all shoreland zoning permits issued, inspections made, work approved, and all other official actions.
- (11) Provide technical and clerical assistance during hearings conducted by the Zoning Board of Adjustment or the Planning, Zoning and Farmland Preservation Committee, as needed.
- (12) Grant waivers where this chapter gives specific authority for such waivers.
- (13) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee or the Planning, Zoning and Land Information Director.

Sec. 52-106. Permits.

Shoreland Zoning Permits.

- (a) Shoreland Zoning Permits issued under this chapter shall also include a review of the floodplain and general zoning provisions of the Calumet County Code, where applicable. Shoreland Zoning permits shall certify that any such use, structure, or site complies with the provision of this chapter, and shall be required in the following instances, unless specifically exempted by this chapter:
 - (1) Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof.
 - (2) Establishment of any accessory or principal use, except uses permitted as conditional uses.
 - (3) Filling or grading of land if required by section 52.62.
 - (4) A shoreland zoning permit shall not be required for structures and activities waterward of the ordinary high watermark which have minimal land use impacts, such as the establishment of bulkhead lines; placement of sand blankets, fish cribs, shore protection (rip rap), stream fords, and private boat landings for the personal use of the riparian owner; waterfowl management practices; weed cutting; construction of small private wharfs or private piers for the personal use of the riparian owner; dredging and waterway enlargements; stream straightening; and placement of individual mooring buoys.
 - (5) Emergency permitting. Any structure destroyed by a natural disaster during a disaster declared a disaster by the Governor of Wisconsin, need not secure a permit for replacement or repair, provided the Code Administrator inspects the structure to document the condition of the structure and verify it was destroyed by the natural disaster. In no case shall an illegal structure be allowed to be reconstructed under this provision.
- (b) Application requirements. An application for a shoreland zoning permit shall be submitted to the Code Administrator on forms furnished by the Planning, Zoning and Land Information Department and shall include the following information:
 - (1) Name and address of the property owner.
 - (2) Signature of the property owner or agent.

- (3) Location ID number, deed, legal description or other identifier of the subject property.
- (4) An accurate site plan, drawn at a scale which produces a clearly legible drawing, showing the following:
 - A. Boundaries, dimensions, and areas of the subject site.
 - B. The spatial relationship of the subject site to abutting public roads and right-of-ways, private roads, easements, and navigable waters.
 - C. The location and dimensions of any existing or proposed structures, or additions, and their relationship to abutting public roads and right-of-ways, private roads, property lines, proposed and existing wells (whether in use or abandoned) and sanitary waste disposal systems, ordinary high watermark of navigable waters, and any known sinkholes or depressions on the land.
 - D. Location of proposed or existing road access points, parking and loading areas, and driveways.
 - E. Building plans including all floor plans and at least two elevation views. The plan shall include any proposed decks or other structures necessary to exit doors or fire escapes, and, any other appurtenances, structures or buildings to be located on the property during construction for which a permit is required.
 - F. Additional information as may be required on the application or by the Code Administrator in order to determine the full compliance with the requirements of this chapter.
- (5) Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided in accordance with the requirements of the County sanitary ordinance.
- (6) Complete application. No application shall be accepted by the Code Administrator, until deemed complete as judged by the Code Administrator, and until the application is signed and all fees established have been paid in full.
- (7) Permit issuance or denial. Upon the Code Administrator's determination that the proposed use or structure complies with the provisions of this chapter, a shoreland zoning permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the chapter and any conditions to the permit. An application for a use or structure not in conformity with the provisions of this chapter shall be denied a shoreland zoning permit, and the reasons for denial shall be stated. In the event the permit is denied, the application fee will not be refunded.
- (8) The County reserves the right to withhold issuing a permit until compliance has been determined with other applicable chapters of this Code.
- (9) Expiration. Except as subsection (e), applies, shoreland zoning permits shall expire 24 months from the date of issuance.
- (10) Renewal. If construction has commenced prior to the expiration of a shoreland zoning permit, but is not completed prior to such expiration, a 12-month renewal of the permit shall be issued

by the Code Administrator upon submittal of a renewal application, required application items and fee.

- (11) Termination. If a use or structure does not comply with the issued shoreland zoning permit or this chapter, the permit shall be terminated by the Code Administrator. If a use permitted by a shoreland zoning permit ceases for a period of more than 18 months, the permit shall terminate, and all future activity shall require a new shoreland zoning permit.

Sec. 52-107. Variances.

A landowner, or their agent, may petition for a variance from the requirements of this chapter. However, a variance from the terms of this chapter shall not be given unless the items identified in subsection (3), have been proven. The burden of proof shall be the responsibility of the petitioner.

- (a) A petition for a variance shall be filed by the property owner, or the owner's agent, on forms furnished by the Planning, Zoning and Land Information Department. Such petition shall include the following:
- (1) Name and address of the property owner and petitioner, if different.
 - (2) Signature of petitioner.
 - (3) Location of property involved in the petition.
 - (4) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.
 - (5) Section(s) of this chapter from which a variance is requested.
 - (6) Details as to the narrowness, shallowness, shape, topography or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use, which make it not merely inconvenient, but extremely difficult if not impossible, to comply with the provisions of this chapter.
 - (7) A statement that the conditions detailed above are unique to this property and do not generally exist on other properties in the same zoning district.
 - (8) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.
 - (9) A petition for a variance shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
 - (10) Other information as requested by the Code Administrator.
- (b) Processing Variance Applications.
- (1) Public hearing. The Zoning Board of Adjustment shall hold a public hearing in accordance with Wis. Stats. § 59.69. At the hearing, any party may appear in person or by agent or by attorney.

- (2) Written notice shall be provided to the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under section 52.41.
 - (3) Decision. Within a reasonable time, the Zoning Board of Adjustment shall render a decision to either grant or deny the request for variance.
 - (4) A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Zoning Board of Adjustment. Unless a permit has been issued, such variance shall expire within one year of the written date of the decision to grant the variance.
 - (5) A variance denied shall be accompanied by the reasons for denial.
- (c) Standards for variance. The Zoning Board of Adjustment shall consider the following standards for granting a variance. The burden of proof at all times remains with the applicant to establish that the requested variance meets the following standards:
- (1) Unnecessary hardship. That there are present actual physical conditions applying to the parcel, building, structure, use or intended use on that parcel, which are creating the unnecessary hardship in the application of this chapter, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
 - (2) Unique Property Limitation. That the conditions described are unique or unusual circumstances applying only to the property under consideration and are not of general or recurrent nature elsewhere in the same zoning district.
 - (3) Conditions not self-created. That the condition creating the hardship or difficulty was not self-created.
 - (4) Public interest. That in granting the variance there will not be contrary to the spirit and intent of this ordinance as identified in section 52-4.
 - (5) Effect on uses. No variance shall have the effect of allowing in any district a use not permitted in that district.
- (d) Pursuant to Wis. Admin. Code § NR 115.05(6)(h), a copy of any variance decision of the Zoning Board of Adjustment, which affects shorelands, shall be provided to the district office of the Department of Natural Resources within ten days of the date such decision is rendered.
- (e) Resubmission. A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 12 months following the decision. The 12 month period may be waived by the Zoning Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered.
- (f) The county shall keep a complete record of all proceedings before the Zoning Board of Adjustment, zoning agency and planning agency.

Sec. 52-108 - 52-112. Reserved.

**ARTICLE XIV.
ENFORCEMENT AND PENALTIES**

Sec. 52-113. – Enforcement and Penalties.

Any person, firm, association or corporation or representative agent who fails to comply with the provisions of this chapter or any order of the Code Administrator or the Planning, Zoning and Farmland Preservation Committee or the Zoning Board of Adjustment, issued in accordance with this chapter shall, upon conviction thereof, forfeit, not less than \$10.00 nor more than \$500.00 and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and cost shall be imprisoned until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate violation.

Sec. 52-114. – Effective Date.

This ordinance, upon passage and publication by the County Board of Supervisors of Calumet County, Wisconsin, shall be effective in all of the unincorporated areas within Calumet County and shall not require approval or be subject to disapproval by any town or town board as provided by Wis. Stat. §§ 59.692 and 87.30.

(Ord. No. 2016-09, March 21, 2017)

Chapter 53

RESERVED

Chapter 54

SOLID WASTE*

* **Cross References:** Buildings and building regulations, ch. 10; environment, ch. 18; standards for animal waste storage, § 18-1; utilities, ch. 74.

Article I. In General

Sec. 54-1. Authority, interpretation, and applicability of chapter.

Sec. 54-2. Purpose and intent of chapter.

Sec. 54-3. Definitions.

Sec. 54-4. Penalty for violation of chapter.

Sec. 54-5. Conflict with state laws.

Sec. 54-6. Exceptions to chapter provisions.

Sec. 54-7. Administration

Secs. 54-8-54-40. Reserved.

Article II. Permits

Sec. 54-41. Required.

Sec. 54-42. Application requirements.

Sec. 54-43. Application review process.

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Article III. General Regulations Regarding Solid Waste Facilities and Hazardous Waste Facilities

Sec. 54-71. Applicability of article provisions.

Sec. 54-72. Transportation requirements.

Sec. 54-73. Report requirements.

Sec. 54-74. Operation requirements.

Sec. 54-75. Financial requirements.

ARTICLE I.

IN GENERAL

Sec. 54-1. Authority, interpretation, and applicability of chapter.

(a) *Authority.* This chapter is adopted pursuant to the authority granted to counties under Wis. Stats. §59.69, and acts amendatory thereto.

(b) *Interpretation.* The interpretation and application of the provisions of this chapter shall be minimum requirements and not a limiting factor or repeal of any power granted by statute. Where any terms or requirements of this chapter are inconsistent or conflicting, the more restrictive interpretation shall be applied. Where a provision of this chapter is required by statute or administrative rule and the provision of the chapter is unclear, the provision shall be interpreted under the guidance of statute and administrative rule.

(c) *Applicability.* The requirements of this chapter shall apply to all persons within the County. (Ord. No. 1998-4, §I, 6-16-1998)

Sec. 54-2. Purpose and intent of chapter.

(a) This chapter and any amendments thereto shall be for the purpose of regulating the transportation, disposal, storage and treatment of solid waste and hazardous waste by persons within the boundaries of the County. These activities shall be permitted only under the terms and conditions as set forth by this chapter and any amendments thereto due to the possible danger to the health, safety and welfare of the public and the impact on the natural resources of the County.

(b) This chapter is intended to regulate the siting of solid waste disposal sites (landfill) as that term is defined in Wis. Stats. ch. 289, solid waste facilities, and hazardous waste facilities as defined in Wis. Stats. ch. 291. It is also the intent of this chapter to:

- (1) Establish procedures pertaining to the landfill siting process within the County.
- (2) Appropriate and levy sufficient fees to cover the County's involvement in the siting process.
- (3) Ensure that any sited landfill is considered in, and works as a supporting part of the County solid waste management plan. This includes financial support for and/or physical accommodation of programs to reduce, reuse, recycle, screen or otherwise divert materials from landfill disposal.
- (4) Preserve landfill capacity of solid waste facilities in the County for future use and to ensure that County municipalities, residents, and businesses shall have assurances as to the duration of landfill operations and the availability of disposal at landfills located within the County.
- (5) Require orderly land use development pertaining to the siting of solid waste and hazardous waste facilities.
- (6) Ensure that final negotiated agreements under Wis. Stats. chs. 289 and 291 shall contain sufficient provisions to afford local residents protection against adverse impacts from the siting of solid waste and hazardous waste facilities in the County.
- (7) Ensure that the costs of disposal are borne by the generators of solid waste and hazardous waste to the greatest degree practical.

(Ord. No. 1998-4, § II, 6-16-1998)

Sec. 54-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person applying for a permit to construct, operate and maintain, or a person applying for reissuance of a permit to construct, operate and maintain a solid waste facility or a hazardous waste facility. The Applicant, at the time of issuance of the permit, shall be the owner of the land wherein the solid waste facility or hazardous waste facility is located.

Closure means those actions to be taken by the owner or operator of a solid or hazardous waste facility to prepare the facility for long-term care and to make it suitable for other uses at the time at which a solid or hazardous waste facility ceases to accept wastes.

Committee means the Calumet County Planning, Zoning, Land and Water Conservation Committee.

County means Calumet County, Wisconsin.

Department of Natural Resources means the State Department of Natural Resources or its

successor agency.

Emergency or *emergencies* means an unforeseen circumstance that jeopardizes the public health, public safety or property of the County or its residents.

Expansion means an increase in additional disposal, treatment or storage capacity to an existing solid waste facility or existing hazardous waste facility where the additional capacity shall be available to or adjacent to the existing solid waste facility or to the existing hazardous waste facility for solid waste or hazardous waste disposal, storage or treatment by means of structural or physical expansion at or adjacent to the existing solid waste facility or to the existing hazardous waste facility.

Facility means solid waste disposal sites and hazardous waste disposal sites as set forth in Wis. Stats. §§289.01(35) and 291.01(8).

Floodplain means the land, which has been or may be hereafter covered by floodwater during the regional flood as defined in Wis. Admin. Code NR ch. 116 and includes the floodway and the flood fringe as defined in Wis. Admin. Code NR ch. 116.

Garbage means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Hazardous waste means any solid waste identified as hazardous waste by Wis. Stats. §§289.01(11) and 291.05(1), (2) or (5), its successor, or identified as hazardous waste by any regulations established by the State Department of Natural Resources.

Hazardous waste facility means a facility in the County for the treatment, storage or disposal of hazardous waste and includes all the contiguous property under common ownership or control surrounding the site or structure.

Incinerating means any technique or process of controlled burning of refuse primarily to achieve volume reduction and/or to change waste characteristics.

Imminent danger means evidence that past or present handling, storage, treatment, transportation or disposal of any solid or hazardous waste may present an eminent and substantial danger to health or the environment.

Landfill means a solid waste facility for solid waste disposal.

Landspreading means the disposal of solid waste in thin layers onto the land surface or the incorporation into the top several feet of the surface soil for agricultural, silvicultural and/or solid waste disposal purposes.

Leachate means water or other liquid which has been contaminated by dissolved or suspended materials due to contact with waste or gases therefrom.

Long-term care means the routine care, maintenance and monitoring of the solid waste facility or of the hazardous waste facility after closure.

Municipal solid waste means solid waste generated primarily by residential and commercial activities.

Permittee means the person who is granted a permit under this chapter to construct, operate and maintain a solid waste facility or hazardous waste facility.

Person means any individual, owner, operator, limited liability corporation, firm, sole proprietorship, trust, partnership, association, corporation or municipality and also means any responsible member, responsible officer, responsible agent and responsible employee of the above noted.

Plan of operation means a report submitted for a solid waste facility or hazardous waste facility that describes its location, design, construction, documentation, monitoring, sanitation, operation, maintenance, closing and longterm care.

Polychlorinated biphenyls (PCBs) means the class of organic compounds generally known as polychlorinated biphenyls and includes any of several compounds or mixtures of compounds produced by replacing two or more hydrogen atoms on the biphenyl molecule with chlorine atoms as set forth in Wis. Stats. §299.45(1).

Recyclable solid waste means solid waste which through transfer, transportation, processing or marketing will be converted into useable materials, products or energy.

Refuse means all matter produced from industrial or community life, subject to decomposition, not defined as sewage.

Land & Water Conservation Department means the Calumet County Land & Water Conservation Office.

Land & Water Conservation Director means the authorized representative of the Planning, Zoning, Land and Water Conservation Committee hired by Calumet County to supervise the operations of the Land & Water Conservation Department and to carry out, or to delegate carrying out, the assigned responsibilities of this chapter.

Sludge means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects.

Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solids or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permit under Wis. Stats. ch. 283 or source material as defined in Wis. Stats. §254.31(10), special nuclear material as defined in Wis. Stats. §254.31(11), or byproduct material as defined in Wis. Stats. §254.31(1).

Solid waste disposal means the discharge, deposit, injection, dumping or placing of any solid waste into or on any land. This term does not include the transportation, storage or treatment of solid waste.

Solid waste facility means a facility for solid waste treatment, solid waste storage or solid waste disposal and includes commercial, industrial, municipal, state and federal establishments, or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites,

incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. This term includes the land where the facility is located. This term does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for re-melting purposes. This term does not include a facility which uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junkyard or scrap metal salvage yard.

(Ord. No. 1998-4, §III, 6-16-1998)

Cross References: Definitions generally, § 1-2.

Sec. 54-4. Penalty for violation of chapter.

Any person violating this chapter, upon conviction, shall be fined \$300.00 for each offense. Each day of a violation shall constitute a separate offense under this chapter. Imprisonment for any person in the County jail can be ordered only for failure to pay the fine which may be imposed. In addition to any other penalty for violating this chapter, the cost of abating a public nuisance by the county shall be assessed as a special charge against the real estate of the person causing such nuisance. In addition to any other legal relief available to the County for violating this chapter, the County may take appropriate legal action or proceedings to recover damages, to abate and remove any nuisance and to enjoin further violations of this chapter.

(Ord. No. 1998-4, §X, 6-16-1998)

Sec. 54-5. Conflict with state laws.

The passage of this chapter does not relieve an Applicant from complying with all of the applicable provisions set forth in statute and the Wisconsin Administrative Code concerning landfills and solid waste disposal sites. The Applicant must comply with all of the applicable statutes and the Wisconsin Administrative Code; however, to the extent that this chapter is more restrictive than the Wisconsin Administrative Code, an Applicant must meet the more restrictive provisions of this chapter in order to obtain a permit pursuant to this chapter.

(Ord. No. 1998-4, §XII, 6-16-1998)

Sec. 54-6. Exceptions to chapter provisions.

The following shall not be deemed to come within the scope and meaning of this chapter:

- (1) This chapter shall not apply to or govern animal waste transportation, animal waste disposal, animal waste storage or animal waste treatment by persons, municipalities or businesses resulting from an agricultural enterprise wherein the animal waste is transported or disposed, stored or treated at a location within the County.
- (2) This chapter shall not apply to or govern the use of sanitary privies, seepage beds or septic tanks, which are regulated by the Wisconsin Administrative Code and/or County private sewage system ordinance. This chapter shall also not apply to or govern the disposal of human waste products into any public sewage system located in the County. The land spreading or knifing of municipal sludge into the ground is also not governed by this chapter.
- (3) This chapter shall not apply to or govern any refuse transportation to or refuse disposal, refuse storage or refuse treatment within the County at existing solid waste facilities that are or were operational on the date of adoption of the ordinance from which this chapter is derived; however, any expansion of these existing solid waste facilities or hazardous

waste facilities shall be within the scope and meaning of this chapter.

- (4) This chapter shall not apply to or govern any refuse transportation to or refuse disposal, refuse storage or refuse treatment in the County where this chapter or sections of this chapter are specified as being not applicable in a negotiated agreement or arbitration award pursuant to Wis. Stats. §289.33.

(Ord. No. 1998-4, §IV, 6-16-1998)

Sec. 54-7. Administration.

The provisions of this chapter shall be administered by the Calumet County Planning, Zoning, Land and Water Conservation Committee, its Staff, and/or its designated Administering Agency. The Committee hereby designates the Land & Water Conservation Director to administer the provisions of this chapter.

Secs. 54-8--54-40. Reserved.

ARTICLE II.

PERMITS

Sec. 54-41. Required.

(a) Upon the effective date of the ordinance from which this chapter is derived, no person shall open, operate or expand a solid waste facility or hazardous waste facility within the County unless such person obtains a County solid waste disposal permit. This article shall not be applicable to solid waste facilities or hazardous waste facilities, which were in existence prior to the passage of the ordinance from which this article is derived; however, any expansion of these existing solid waste facilities or hazardous waste facilities shall be within the scope and meaning of this chapter. The application for a solid waste or hazardous waste facility permit shall be submitted to the County Planning, Zoning, Land and Water Conservation Committee, in care of the Land & Water Conservation Department, 206 Court Street, Chilton, WI 53014. The application shall be submitted on forms provided by the County Land & Water Conservation Department and shall be accompanied by an application fee in the sum of \$1,000.00. The County may also charge the Applicant an additional application fee to fully or partially reimburse the County for appropriate and necessary costs and expenses incurred by the County in the application process including, but not limited to, reasonable costs and reasonable expenses incurred by the County for attorneys' fees and experts' fees related to the application process. The total application fees to the Applicant, including the initial application fee, shall not, however, exceed \$20,000.00 for any application. The Applicant, if a permit is issued or reissued by the County, shall be only the person allowed to construct, operate and maintain the solid waste facility or the hazardous waste facility during the permit period. The Applicant may not apply for a permit to only construct the solid waste facility or hazardous waste facility.

(b) The information in the initial application to be provided by the Applicant is necessary in order to allow the County to:

- (1) Establish the need and the intent for a requested permit;
- (2) Establish the potential short-term and long-term negative or positive environmental, economic, public health, public welfare and public safety impacts and effects for the County and its residents in the construction, operation and maintenance of the proposed solid waste facility, the existing solid waste facility, the proposed hazardous waste

facility or the existing hazardous waste facility; and

- (3) Satisfy the County that there will be or there has been reasonable compliance by the Applicant with this chapter, with any permit granted to the Applicant and with any conditions established in any permit or proposed permit.

(Ord. No. 1998-4, §V, 6-16-1998)

Sec. 54-42. Application requirements.

The application shall be signed by the Applicant and shall be accompanied by information which shall include, but not be limited to, the following:

- (1) *Cover letter.* A signed cover letter from the Applicant stating the project title; the name, address and telephone number of the primary contacts for the project, including the facility owner and any consultants; the present property owners and all others with a financial or proprietary interest in the property; the proposed facility owner and operator; and the name, address and telephone number of the primary person responsible for ensuring the completeness and accuracy of the application.
- (2) *Initial site report.* The application shall include the initial site report submitted to the State Department of Natural Resources.
- (3) *Feasibility report.* The application shall include an outline of the feasibility report required by Wis. Stats. ch. 289, intended to be submitted to the State Department of Natural Resources.
- (4) *Table of contents.* The application shall have a table, which specifically references, by page number or other identifier, the location of the following information within the initial site report or other sections of the application:
 - a. Geographical areas that may affect or be affected by the proposed facility.
 - b. Zoning.
 - c. Other solid waste or hazardous waste facilities owned or operated by the Applicant.
 - d. Boundaries of the facility.
 - e. Topographic surveys.
 - f. Stream, road, railroad, utility line and pipeline locations.
 - g. Previous excavations on the site.
 - h. Governmental permits.
 - i. Applications for local approvals.
 - j. Surface water and hydrological features.

- (5) *Application specifications.* The application submitted under this chapter shall specify all information required by the County, but at minimum shall include the following:
- a. All areas that may affect or be affected by the proposed facility. At a minimum, this will be the area within 2,500 feet of the limits of filling. The information shall be supplemented with maps and with the names and addresses of all property owners within 2,500 feet of the property boundaries of the proposed site. Also included shall be a certified survey and the legal description of the proposed site.
 - b. A discussion of the current land use and its zoning of the site and all properties located within 2,500 feet of the site. This discussion will specifically include areas where zoning variances will be required, where agricultural impact statements may be required or where floodplain, shoreland or wetland zoning is designated.
 - c. A statement of all other solid waste or hazardous waste facilities which the Applicant or its principal operates or in which the Applicant or its principal has an interest located within 150 miles of the proposed site.
 - d. The boundaries of the proposed facility, external boundaries of the property and all properties lying within 2,500 feet of the external boundaries of the Applicant's property. (If not owned, the foregoing shall apply to leased property or property which is the subject of the application.)
 - e. A detailed topographic survey of the proposed facility and all areas within 1,500 feet from the proposed limits of filling. The minimum scale shall be one inch to 200 feet with a maximum two-foot contour interval.
 - f. Location and names of all streams, roads, railroads, utility lines and pipelines on the site or within 1,000 feet thereof.
 - g. Boundaries and elevations of previous excavations on the site, if any.
 - h. A listing of all existing and required governmental permits affecting the site.
 - i. A description of the surface water drainage patterns and significant hydrological features such as surface waters, springs, surface water drainage basins, divides and wetlands, and a proposed on-site water management plan and an erosion control plan.
 - j. A map, which shows all on-site monitoring and all property owner wells within a 2,500-foot radius of the proposed solid waste or hazardous waste facility.
- (6) *Operation plan.* The Applicant shall submit an outline for a plan of operation required under Wis. Stats. ch. 289, including information pertaining to the type and estimated volume of materials to be disposed, municipalities and industries to be served, a timetable for the commencement of operations, proposed facility life, duration and cessation of disposal operations, anticipated cover frequency, primary travel routes to be used to transport construction materials and waste, and a general statement as to methods that the Applicant will utilize pertaining to minimizing adverse impacts of neighboring residences and businesses. Also required are the names, addresses and telephone numbers of the transporters who will be initially authorized to transport waste; the hours and date for

daily disposal operations; maximum height and depth of the solid waste facility; and proposed maximum active fill area. Also to be required is the proposed plan and method for prevention, reduction and control of dust, debris, odors, noise, litter, noxious weeds, rodents, fire, explosions, gas discharge or other potential nuisances or hazards. Also included with the operation plan should be a site plan drawn to a scale no less than one inch to 200 feet.

- (7) *Other plans.* The Applicant shall submit the following plans:
- a. Emergency preparedness plans.
 - b. Recycling plan, if any, designating disposal operations, storage operations, treatment operations, including any specific plans for recycling, source separation, incineration or baling operations at or near the proposed facility.
 - c. Plans to provide financial, public health, environmental and legal protection to current and future residents, their heirs and assigns that reside within at least 2,500 feet of the proposed facility, including any insurance coverage protection for these residents, their heirs and assigns.
 - d. Plan to provide financial, environmental and legal protection to the County, including insurance coverage protection to the County government, its officers, its employees and its agents.
 - e. Plans to provide physical and personal security.
 - f. Plans that provide for setbacks from adjacent lands, highways, waterways, floodplains, public lands and public easements. The following minimum standards would apply:
 1. One thousand feet from the ordinary high water mark of any navigable lake, pond or flowage.
 2. Three hundred feet from the ordinary high-water mark of any navigable river or stream or to the landward side of the floodplain, whichever distance is greater.
 3. Not allowed within a floodplain.
 4. One thousand feet of the right-of-way of any state or federal highway. A distance of 500 feet from any county trunk or town road.
 5. One thousand two hundred feet of any public or private water supply well.
 6. Five hundred feet from the property line of any adjoining property owner.
 - g. Plan to provide environmental testing and monitoring of groundwater, private wells, soils, leachate, gas and air at or near the proposed facility.
 - h. Plans for the proposed traffic pattern to and from the facility. Also the specific roadway usage for access to and from during the construction, operation,

maintenance, closure and long-term care of the facility.

- i. Plan for the projected need, if any, of additional public service at or near the proposed facility as a result of the construction, operation, maintenance, closure and long-term care of the facility.
 - j. Plans identifying the projected need in the County and the projected need within a 100-mile radius of the facility with specific need considerations and projections based on the current and projected future economics of solid waste and hazardous waste disposal, storage, treatment, transportation and collection.
 - k. Plan identifying the use of the non-active areas of the facility. This would include areas restricted due to setback requirements, environmentally sensitive areas, etc. It would be encouraging that these areas be developed and reserved to the study of nature. Once developed, it would also be encouraged that the site would be open to schools of the area in their environmental studies.
 - l. Plan that provides a minimum guaranteed length of time during which County residents and businesses shall have access to the site.
 - m. Plan that establishes a property value protection program to protect residents located within 2,500 feet of the site from property value loss occasioned by the siting of the solid waste or hazardous waste facility.
 - n. Plan for provisions for financial and/or physical support of, and interaction with, waste diversion and waste screening programs such as "Clean Sweep" program under which hazardous household waste would be received at the site for disposal of by the Applicant.
- (8) *Closure plan.* The Applicant shall submit an outline describing the proposed type of final closure for the site, its proposed post-closure uses of the site, and a statement as to its ability to provide closure, long-term care and corrective actions required under Wis. Stats. Ch. 289, Also included with the closure plan would be a site plan drawn to a scale no less than one inch to 200 feet.
- (9) *Other information.*
- a. Copies of any current financial statements or other relevant financial information describing the current financial condition of the Applicant. An amount of not less than \$200,000.00 in a form acceptable to the County sufficient to show financial viability of the Applicant to construct and operate the facility as well as undertake its responsibilities as set forth in this chapter and Wisconsin Statutes and will save harmless, indemnify and defend the County, its officers, its representatives and its agents from any expenses or costs incurred through action by the Applicant with regard to the facility.
 - b. A written authorization by the Applicant, in a form satisfactory to the County, authorizing the County, its representatives and its agents to enter, upon reasonable notice to the Applicant, the facility for the purpose of inspection of the premises and for any future inspection of any solid waste or hazardous waste that may be disposed, stored or treated. This authorization for access to and inspections by the

County, its representative or its agents shall apply from the date of application through construction, operation, maintenance, closure and longterm care of the solid waste facility or hazardous waste facility. This authorization during that time period shall also allow the County, its representatives or its agents to receive solid waste, hazardous waste or soil samples for waste characteristics testing of the solid waste or hazardous waste, to receive samples for the groundwater in any monitoring wells, to receive samples for the testing of leachate, if any, in the leachate storage facility and to receive dust samples for the testing of the air quality at the solid waste facility or at the hazardous waste facility.

- c. A signed sworn statement by the Applicant, in a form satisfactory to the County, wherein the Applicant agrees that the Applicant will save harmless, indemnify and defend the County, its officers, its representatives and its agents from any costs or expenses incurred by the County, its officers, its representatives or its agents through the failure of the Applicant, its representatives, its agents or its assigns to construct, operate, maintain, close and provide longterm care for the solid waste facility or hazardous waste facility as required by federal laws and federal regulations, by state law and state regulations, by this chapter, by any issued permit and by any conditions contained within the permit, including any reasonable costs or reasonable expenses the County may incur in labor and equipment for correcting any conditions of the permit or violations of this chapter, whenever the County determines it is necessary and appropriate for the County to correct any condition of the permit or violations of this chapter or to repair any damages occurring as a result of any violation of this chapter, as a result of any violations of the conditions of the permit, or as a result of the negligence of the Applicant, its representatives, its agents or its assigns. Also wherein the Applicant further agrees to save harmless, indemnify and defend the County, its officers, its representatives or its agents from any claim for damages, fines or forfeitures brought by a third party against the County, its officers, its representatives or its agents, where the claim is related to or is a result of the construction, operation, maintenance, closure and long-term care of the proposed solid waste facility or hazardous waste facility. By such sworn statement, the Applicant further agrees to reimburse the County for any actual expenses, costs and fees expended by the County in enforcing this chapter or in enforcing any permit or condition of any permit issued under this chapter against the Applicant, its representatives, its agents or its assigns.
- d. No permit shall be issued, reissued, nor shall remain effective unless there is on file from the Applicant with the County Treasurer a cash bond or a bond with a corporate surety, duly licensed in the state, in the penal amount of \$200,000.00 to ensure that the Applicant, its representatives, its agents and its assigns will comply with all the terms, conditions, provisions, requirements and specifications contained in this chapter. Before the issuance or reissuance of the permit and before the acceptance of the bond by the County Treasurer, the bond shall be approved by the Corporation Counsel. If a corporate bond is offered, it shall be executed by a company authorized to transact business in the state. If a cash bond is offered, it shall be deposited with the Treasurer, who shall give his official receipt thereof reciting that such cash has been deposited in compliance with, and subject to, provisions of this chapter. Failure by the Applicant to maintain the approved bond in the amount noted during the period of the permit shall automatically terminate the permit. Upon the failure to maintain the approved

bond in the amount noted by the Applicant, the County shall have the right to obtain a Court order that will terminate any current and future disposal operations, storage operations or treatment operations at the solid waste facility or the hazardous waste facility. The Court order will, in addition, require immediate final closure of the solid waste facility or of the hazardous waste facility.

- e. The County may require such other information as may be necessary to determine the nature of the solid waste or hazardous waste facility, the impacts on the surrounding area and other impacts to the County. The County may waive portions of the specified information if it is satisfied that the same is not relevant or necessary for a full and proper evaluation of the application.

(Ord. No. 1998-4, §VI, 6-16-1998)

Sec. 54-43. Application review process.

(a) Prior to any general public hearing on the application for a permit, the County Planning, Zoning, Land and Water Conservation Committee and the Land & Water Conservation Director or their designee shall examine the application and any other plans or pertinent information submitted by the Applicant. A copy of the application shall be forwarded by the Town Clerk of the town in which the Applicant is located. The County shall coordinate its investigation with the applicable town to determine whether the construction, operation or maintenance of the proposed solid waste facility or the proposed hazardous waste facility and the granting of the permit to the Applicant by the County would or would not violate any ordinance or regulation of the County or the applicable town, would or would not in any way create a hazard or menace to the public health or safety, or create a nuisance to the residents of the County or the applicable town.

(b) The County shall also determine whether or not the granting of a permit in the location described in the application would be a violation of any zoning regulations of the County or of the applicable town. The County shall also determine what, if any, negative or positive effects or impacts the construction, operation, and maintenance of such proposed solid waste facility or proposed hazardous waste facility may have upon the future character of the local neighborhood, upon the future traffic conditions, upon municipal services and costs, upon the future public utilities' needs, and any other negative and positive effects and impacts pertinent to the short-term and long term health, environmental, financial, safety and welfare conditions of the town, County and its residents.

(c) Prior to issuance of denial of any permit for a proposed solid waste facility or proposed hazardous waste facility, there shall be a general public hearing on the application for a permit. The completed application with the appropriate bond shall be on file with the County Land & Water Conservation Department at least 60 days prior to the general public hearing. Prior to the general public hearing, the County Planning, Zoning, Land and Water Conservation Committee may request the Applicant to meet personally with the County, its representatives or its agents to discuss the application, the bond or any other relevant concerns. No general public hearing shall be held until the County deems the application for a permit is complete, approves the bond and receives the appropriate initial application fee from the Applicant.

(d) The general public hearing shall be conducted under the following terms:

- (1) *Notice of hearing.* Notice of the public hearing shall be published as a Class 2 Notice under Wis. Stats. ch. 985. In addition, notice of the public hearing shall be mailed to the last known address of all owners of property within 2,500 feet of the subject property. Failure to comply with this notice procedure shall not invalidate any action taken by the

County.

- (2) *Public hearing.* At the public hearing on the application, the County shall hear and receive any evidence or testimony presented by the Applicant or authorized agents. At the conclusion of the Applicant's presentation, the County shall hear any public comments from those in support of and from those in opposition to the application from the applicable town board and from any experts employed or retained by the County. Such comments or testimony shall be considered in establishing conditions for the permit beyond the minimum required by this chapter. The Applicant shall be given an opportunity to respond to any comments, evidence or recommendations.
- (3) *Standards for evaluation and approval.* The County shall review all aspects of the application as it relates to potential impacts on nearby residents, the local business community, the County, the environment and to otherwise comply with the intent and purpose of this chapter. The County shall review the potential short-term and long-term adverse or positive effects and impacts of the proposed facility on the following:
 - a. Existing roads, bridges, traffic flow, traffic pattern, exits and designated access routes;
 - b. Surface water quality and drainage;
 - c. Groundwater quality and public and private drinking water quality;
 - d. Air quality;
 - e. Adjacent wetlands, floodplains, forests, agricultural and unique lands;
 - f. Current and future land uses and current and future land values;
 - g. Soil erosion;
 - h. County and town zoning and County and town planning;
 - i. County and town appropriations and revenues;
 - j. Public safety of the County and town residents;
 - k. Public health of the County and town residents;
 - l. Existing topography and existing vegetation;
 - m. Existing wildlife habitat and existing domestic animals.
- (4) *Approval and denial.* Within 120 days following the hearing, the County Planning, Zoning, Land and Water Conservation Committee shall make a recommendation to the County Board whether to grant or deny the application based upon specific findings and conclusions. This time period can be extended upon mutual agreement between the Applicant and the County. The County Board shall act on such recommendations within 30 days of the receipt of the recommendation.

- (5) *Conditions for approval.* The approval of an application may be conditioned upon the Applicant meeting certain operational, closure and restoration provisions and standards. In addition, the approval shall be specifically conditioned upon the permit being incorporated into the final negotiated agreement as set forth under Wis. Stats. Ch. 289.
- (6) *Noncompliance.* If, at any time, the permittee fails to meet the financial requirements or other conditions of the permit and negotiated agreement, a County representative shall notify the permittee that it has 90 days in which to come into compliance. If after 90 days the permittee remains in noncompliance, a meeting shall be held between the County and the permittee at which time the County may rescind the permit.

(e) The Applicant is responsible for payment of an annual fee for a permit in the sum of \$1,000.00. No such permit shall be issued or reissued except on direction by the Planning, Zoning, Land and Water Conservation Committee, and the permit shall not be transferable. Any transfer of ownership, operation, maintenance, possession or control of the solid waste facility or hazardous waste facility by the Applicant will automatically terminate the permit.

(f) Prior to the annual permit issuance by the Committee, applicable Land & Water Conservation staff should report on the operation of the facility and its compliance with the terms of this chapter and the conditions of approval. If compliance does not exist, the committee has the right to not issue the permit. The solid waste or hazardous waste facility cannot operate without the existence of a permit. (Ord. No. 1998-4, §VII, 6-16-1998)

Secs. 54-44--54-70. Reserved.

ARTICLE III.

GENERAL REGULATIONS REGARDING SOLID WASTE FACILITIES AND HAZARDOUS WASTE FACILITIES*

* **Cross References:** Environment, ch. 18.

Sec. 54-71. Applicability of article provisions.

The provisions of this article shall be applicable to persons constructing, operating, maintaining, closing, or providing long term care at a solid waste facility or at a hazardous waste facility in the County or any person transporting to and from a solid waste facility or to and from a hazardous waste facility within the County.

(Ord. No. 1998-4, §VIII, 6-16-1998)

Sec. 54-72. Transportation requirements.

(a) No person, including any person permitted by the County to construct, operate or maintain a solid waste facility or a hazardous waste facility, shall use any roadway as a route of travel to and from any proposed or existing solid waste facility or proposed or existing hazardous waste facility unless that roadway is established and authorized by the County as the designated roadway. Any person constructing, operating, maintaining, closing, or providing long-term care at a solid waste facility or at a hazardous waste facility within an applicable town shall fully comply with all town roadway regulations.

(b) Any person responsible for transport of solid waste or hazardous waste shall use vehicles that are

constructed in such a manner to prevent any portion of the solid waste or hazardous waste or any other materials from disposing, leaking, spilling, falling or escaping from any vehicle onto any public road or other public or private property in the County.

(c) Solid and hazardous wastes shall only be transported during the hours and days established and authorized by the County.

(d) The Applicant shall prepare a list of authorized transporters who will be allowed to transport, which shall contain the names, addresses and telephone numbers. This list shall, prior to commencement of daily disposal, storage or treatment operations, be filed with the Town Clerk of the respective town. No transporter, other than an authorized transporter or any transporter on any updated list filed with the County, shall be allowed to transport waste.

(Ord. No. 1998-4, §VIII(A), 6-16-1998)

Sec. 54-73. Report requirements.

(a) Any person holding a permit by the County to construct, operate and maintain a solid waste facility or hazardous waste facility shall file an annual written report by April 1 with the County Land & Water Conservation Department with an attached sworn statement verifying the completeness of the enclosed report detailing the following prior year disposal, storage and treatment activity at the solid waste facility or at the hazardous waste facility, namely:

- (1) The amount and type of solid waste or of hazardous waste disposed, stored or treated during that prior year.
- (2) The sources of solid waste or hazardous waste disposed, stored or treated during that prior year.
- (3) The names and addresses of all authorized transporters and the names and addresses of all responsible parties authorized to manage and control the daily operations, storage operations or treatment operations during that prior year.
- (4) Copies received by the person holding the permit during the prior year of any groundwater, private well, gas, leachate and air quality testing or monitoring data related to the solid waste facility or to the hazardous waste facility.
- (5) Copies received by the person holding the permit during the prior year of all citizen complaints.
- (6) Copies forwarded by the person permitted during the prior year of all engineering reports, monitoring reports, administrative documents and court documents to the State Department of Natural Resources, the United States Environmental Protection Agency and to any other state or federal agency related to the solid waste facility or to the hazardous waste facility.

(b) Any person holding the permit shall require all persons transporting wastes to complete and sign a form at the time of entering the solid waste facility or hazardous waste facility, noting on the form the following:

- (1) The source of the waste;

- (2) The type of waste;
- (3) The amount of waste;
- (4) The date of disposal, storage or treatment;
- (5) The name and address of the authorized transporter;
- (6) The signature of the authorized transporter or signature of the agent of the authorized transporter.

Such completed forms shall be compiled daily by the person holding the permit. Also, on a monthly basis, a copy of such completed forms shall be sent to the County within ten days of the preceding month. Copies of these daily disposal, storage or treatment forms shall be kept on the premises at all times during the daily disposal, storage or treatment operations.

(c) Any person holding a permit shall report within 24 hours, in writing to the County, any oral or written information received regarding the following occurrences related to the solid waste facility or the hazardous waste facility:

- (1) Any occurrences causing physical injury where medical treatment has been received by any person.
- (2) Any hazardous waste entering or exiting the solid waste facility and any hazardous waste disposed, stored or treated at the solid waste facility.
- (3) Any permanent, emergency or temporary closing of the solid waste facility or of the hazardous waste facility and any substantial repair or reconstruction at the solid waste facility or at the hazardous waste facility.
- (4) Any government ordered closing of the solid waste facility or of the hazardous waste facility.
- (5) Any transfer or assignment of ownership, possession, control or operation of the solid waste facility or of the hazardous waste facility.
- (6) Copies received by the person holding the permit of any groundwater test results from private wells of residents living within 2,500 feet of the solid waste facility or the hazardous waste facility demonstrating that these water samples from the private wells do not meet the State Department of Natural Resources primary or secondary drinking water standards as established by law and state regulations.
- (7) Any fire, explosion or other emergency public health or safety conditions at or near the solid waste facility or the hazardous waste facility that are related to the construction, operation, maintenance, closure or long-term care of the solid waste facility or the hazardous waste facility.
- (8) Copies received by the person holding the permit of written complaints or written inquiries that are related to the construction, operation, maintenance, closure or long-term care of the solid waste facility or the hazardous waste facility.

(Ord. No. 1998-4, §VIII(B), 6-16-1998)

Sec. 54-74. Operation requirements.

- (a) *Maintenance of care.* Any person issued a permit by County to construct, operate and maintain a solid waste facility or a hazardous waste facility shall construct, operate, maintain, close and provide long-term care of the solid waste facility or the hazardous waste facility in a nuisance-free status to avoid any public or private nuisance. Notwithstanding any provision of this chapter, the County may commence and maintain an action under statutory or common law nuisance against any person, including the person so permitted. Should the County succeed against such person in any action for private or public nuisance, the County shall be entitled to judgment for damages and costs, including reasonable attorneys' fees, and may obtain a judgment and an order against such person that the public nuisance be abated at or near the facility.
- (b) *Removal of waste near facility.* Any person holding a permit shall police and, when appropriate, remove on a daily basis, during disposal operations, storage operations or treatment operations any solid waste or hazardous waste disposed on the roadways or rights-of-way at least within one mile of the entrance facility. Any windswept solid waste that becomes deposited upon properties of the area is also the responsibility of the holder of the permit and a cleanup must occur within a 48-hour period.
- (c) *Covering solid waste.* Any person holding a permit shall cover all solid waste disposed at the solid waste facility with sufficient and necessary cover materials to eliminate litter, discharge, objectionable odors and objectionable dust.
- (d) *Fences and gates.* Any person holding a permit shall erect and maintain temporary and permanent fences or take such other measures as may be appropriate and necessary to control the blowing of paper and to control the discharging of other materials from the solid waste facility or from the hazardous waste facility. Any person holding a permit shall provide and maintain appropriate and necessary physical and personnel security protections, including fences and lockable gates. The person so permitted shall lock all gates at the facility except during disposal operations, storage operations, and treatment operations or except during emergencies. The person so permitted shall conduct the disposal operations, storage operations and treatment operations in such a manner that any dust, dirt, debris, other materials or any other substance will not be carried by the wind across the boundary of the solid waste facility or the hazardous waste facility onto adjoining properties. The person so permitted shall provide sufficient cover materials for the solid waste or hazardous waste at the end of each operational day, as well as when wind conditions warrant throughout the day, with these sufficient cover materials to prevent blowing papers and unsightly conditions at the solid waste facility or at the hazardous waste facility.
- (e) *Attendant.* The person so permitted to construct, operate and maintain the facility shall have an attendant employee at the facility whenever disposal operations, storage operations or treatment operations are occurring and the person so permitted shall have an attendant agent "on call" to respond to emergencies whenever disposal operations, storage operations or treatment operations are not occurring at the facility. The County shall be provided, in writing by the person so permitted, the names, addresses, and telephone numbers of all attendant employees or attendant agents who will be at the facility during disposal operations, storage operations or treatment operations and who will be "on call" when disposal operations, storage operations or treatment operations are not occurring.
- (f) *Responsible managers.* The person permitted shall provide the County, prior to commencement of operations, the names, addresses, and telephone numbers of the responsible managers who are responsible to manage, control and administer the solid waste facility or the hazardous waste facility, including the transportation to and from, the construction, operations, disposal, maintenance and closure

of the facility.

(g) *Groundwater monitoring.*

- (1) The person permitted shall provide groundwater monitoring wells which shall be maintained from licensure of the facility until 40 years after final closure around the perimeter of the facility. There shall be a performance boundary inside the property limits of the facility. Groundwater from private wells within 2,500 feet of the facility and from monitoring wells around the perimeter shall be evaluated to establish baseline data. With prior written consent of the owners, one round of testing of the private wells and testing of the monitoring wells will be accomplished by the person permitted within one year after the permit issuance but prior to the facility receiving waste material. This well testing to establish baseline data will include testing for the parameters set forth in Table 1. The joint committee identified in this section will include a consultant mutually acceptable to the County and the person permitted who shall inspect the wells for casing integrity within 60 days after the permit issuance. No testing, well replacement or water replacement under this section shall be required by person permitted for any well capped by a landowner, any well having a cracked or damaged casing, as determined by the joint committee, or any well that does not meet the requirements of the Wisconsin Administrative Code for private potable water, as determined by the joint committee. If any such deficiency in a well is noted by the joint committee and in writing to the well owner, the County, and the person permitted, and it is cured to the satisfaction of the joint committee by the well owner within 90 days after such identification, such well shall be included in subsequent testing, well replacement or water replacement. Any deficiencies in the cap or casing condition of the well or other deficiencies such that the well does not meet the requirement of the Wisconsin Administrative Code after licensure by the State Department of Natural Resources of the facility shall be noticed by the joint committee to the permittee, the County and to the owners in writing, and if any such deficiency is cured to the satisfaction of the joint committee within 90 days after receipt of the notice by the well owner, such well shall be included in subsequent testing, well replacement or water replacement. The well water samples shall be analyzed by a certified laboratory. The person permitted shall, upon request of the County in writing, split samples with the County.

TABLE 1
Groundwater Elevation
Field Temperature
Field pH
Conductivity
Alkalinity
Hardness
Chemical Oxygen Demand

Chloride
Boron
Sulfate
Nitrate + Nitrite Nitrogen
Ammonia Nitrogen
Odor
Turbidity
Fluoride
Iron
Lead
Manganese
Arsenic
Total VOCs

- (2) The private wells within 2,500 feet of the facility that meet requirements of the Wisconsin Administrative Code for private potable water as determined by the joint committee upon licensure of the facility will be eligible to participate in an environmental monitoring program. The first well tests after the baseline tests shall be taken in the month of June (or other time within 60 days thereof as required by the State Department of Natural Resources) first following licensure and shall continue for 40 years after final closure. The environmental monitoring program shall consist of periodic testing of such wells that meet Code requirements and shall be based on state-of-the-art testing. This periodic testing for the 20 parameters set forth in Table 1 will be offered biannually during the first ten years following the licensure of the facility and annually thereafter to well owners who consent in writing in advance to such testing upon written request by the person permitted. The results and analysis of these tests shall be provided to the County by the person permitted within 30 days of receipt of the results. Disclosure of test results shall not be delayed without reasonable scientific basis. The tests shall be taken in June (or other time within 60 days thereof as required by the State Department of Natural Resources) by the person permitted or its agents. If any additional water supply wells are constructed for human consumption within 2,500 feet of the facility or if fewer well water supplies are maintained in this area as operational for human consumption, then the number of water supply wells requiring testing, well replacement and water replacement by the person permitted shall increase or decrease respectively, subject to the reciprocal obligations in this section.
- (3) A performance boundary shall be established inside the property limits of the facility.

The groundwater at this performance boundary shall be tested and monitored, prior to licensure and for 40 years after final closure, via the monitoring wells thereat, by testing for at least the parameters listed in Table 1. The testing at the performance boundary shall be accomplished at least twice annually and the results disclosed to the County in writing within 30 days of receipt by the person permitted. Disclosure of test results shall not be delayed by the person permitted or its agents without reasonable scientific basis. Unless otherwise stated, all costs for testing, analysis and delivery by the person permitted and the costs of the joint committee per this section shall be at the expense of the person permitted. The well water samples shall be analyzed by a certified laboratory.

- (4) If at any time any well within 2,500 feet shall test positive for pollution, contamination or impurity presence exceeding a drinking water quality criterion established by either the State Department of Natural Resources or the United States Environmental Protection Agency which may be caused either in whole or in part by disposal operations at the facility and which may make the water from such well unsuitable or unsafe for human or livestock use or consumption, the following procedure shall apply: The County, through notice to the person permitted, may require or instruct (in writing or orally with written confirmation as soon as possible) that the well owner use an alternative water supply. Upon such notice to the well owner and the person permitted, the well owner shall arrange for immediate short-term delivery of potable water, with the person permitted conditionally guaranteeing the costs of such temporary potable water delivery. The guarantee is conditional in that it is subject to a requirement of full repayment by the well owner as set forth in this section if the joint committee determines the facility or disposal operations at or near the facility is not the cause of the contamination, pollution or impurity. If potable water replacement to the well owner is required of the person permitted by the County extending beyond the initial period of immediacy, thereupon the person permitted shall, at his expense, arrange, provide and furnish to the owner and occupants of the affected property such amounts of potable water at such frequencies and durations of time as the County or its agent may require in writing. As an alternative, the person permitted may provide a new water source or well at least comparable in characteristics to the previous water source or well and free of such pollution, contaminations or impurity to the property affected and with the written approval of the well owner and County, which approval shall not be withheld unreasonably. If the person permitted offers this alternative and the owner refuses this alternative unreasonably or without good cause, as determined by the joint committee, then as to such well, no further testing, well replacement or water replacement under this section shall be required of the person permitted.
- (5) To ascertain causation of any well pollution, contamination or impurity on an eligible parcel, upon the request of the person permitted or the County, a joint committee composed of three persons shall be established within 30 days of request. The person permitted and the County shall each appoint a representative and the two representatives shall mutually agree to a third person who is a professional or certified person, such as a professional engineer or hydro geologist recognized as having knowledge relating to wells, groundwater, underground soil structure, groundwater migration and water testing, so as to be able to render a reasoned opinion as to the source of well contamination to a reasonable degree of scientific certainty. The majority written opinion of the three-member joint committee shall be final as to the issue of cause of well pollution, contamination or impurity, and the written opinion will include the ordered actions for the person permitted, if any, to remedy the pollution, contamination or impurity in the short term and long term with regard to supplying potable water, water replacement or

well replacement to the affected well owner.

- (6) If the joint committee in writing determines that the facility or disposal operations at or near the facility is the source of the well pollution, contamination or impurity to a reasonable degree of scientific certainty, the person permitted shall be obligated to supply potable water or provide a replacement well or a replacement water source free of contamination to the affected property as the joint committee directs within 30 days of receipt of the ordered action.
 - (7) If the joint committee in writing determines that the facility or disposal operations at or near the facility is not the source of the well pollution, contamination or impurity to a reasonable degree of scientific certainty, the obligation of the person permitted to supply potable water or a replacement well or replacement water source shall cease, and all costs of well replacement or water source replacement and potable water incurred shall be repaid by the recipients and/or offset as noted in this section.
 - (8) The obligation of the person permitted to supply potable water or to provide a replacement well or replacement water source is conditional upon the well owner and property occupants cooperating to allow reasonable unrestricted access, sampling and testing of the wells by the joint committee and by the person permitted or its consultants retained to conduct any investigation.
 - (9) Parties eligible for financial assistance from the State for the replacement of private water supplies, well replacement and other water source replacement shall cooperate in making application for such funds. As to any eligible parcel, until the joint committee determines that the facility is not the cause of the well contamination, the person permitted shall pay all costs providing immediate water replacement or well replacement or replacement water source less any amounts paid for by the state program; however, if the joint committee determines that the facility is not the cause of the contamination, the County may assess the property owner to the extent permitted under applicable law to recoup all costs of water replacement or well replacement or replacement water sources to the extent that the County required the person permitted to provide or guarantee the same. Any such amounts assessable by the County as permitted by law, whether assessed in fact or not, shall be a credit or offset against any future sums payable by the person permitted. If there are costs that cannot be reimbursed by the state or assessed by the County, the person permitted reserves the right to proceed at law against the property owner unjustly enriched. Alternatively, the person permitted may proceed at law directly against such property owner unjustly enriched.
- (h) *Rats, rodents, insects and weeds.* The person permitted shall store all materials salvaged in a building at the site location in such a manner as to prevent rat harborage and to avoid public nuisance. The person so permitted shall exterminate insects and rodents and shall destroy all noxious weeds at the facility.
- (i) *Emergency equipment; repairs and reconstruction.* The person permitted shall maintain sufficient firefighting equipment and other appropriate emergency equipment at all times at the facility. The person so permitted shall immediately maintain, repair or reconstruct the facility, including any active fill area, upon information received that failure to repair or reconstruct the facility, including any active fill area, would or could present a danger to the public health, safety or welfare of any person.
- (j) *Creation of hazards and nuisances.* The person permitted to construct, operate or maintain a

facility shall not locate, construct, operate and maintain the facility where the disposal, storage or treatment of the waste or where the seeping, disposing, spilling, draining, emptying, pumping or escaping of any solid waste or hazardous waste from the facility would at any time constitute a private or public nuisance, would create a public health or safety hazard, would pollute the groundwater of adjacent properties, would pollute any surface water or groundwater, or would pollute the air.

(k) *Access roads.* The person permitted shall construct, operate and maintain all private access roads to ensure vehicle traffic in all types of weather conditions. There shall be available all necessary road maintenance equipment to ensure that traffic movement shall be maintained on the access roads during periods of heavy rain or heavy snowfall. Necessary precautions shall be taken to eliminate excess dust at the facility, including all private access roads to and at the facility. The person so permitted shall monitor and test air quality at the facility as necessary and appropriate or as required by the State Department of Natural Resources.

(l) *Disposal of flammable or explosive material.* No person, including a person permitted to construct, operate and maintain a solid waste facility or a hazardous waste facility, shall dispose, store, treat or handle, in any way, any solid waste or hazardous waste at the facility, or that is not authorized for disposal, storage or treatment by the permit issued, or that creates a potential for a fire or for an explosion hazard, or that creates the potential to liberate hazardous or poisonous gas from the facility. Such person shall use structures, equipment, operational techniques and methods at the facility that will substantially reduce or eliminate any potential fires or potential explosion hazards and that will substantially reduce or eliminate any potential for the liberation of hazardous or poisonous gas.

(m) *Disposal of hazardous waste.* No person, including the person permitted, shall knowingly dispose, store or treat, in any way, hazardous waste at any solid waste facility. There shall be no separation or isolation of any particular solid waste or hazardous waste if any such solid waste or hazardous waste, which in combination with another solid waste or hazardous waste material, may cause a fire or explosion or may cause liberation of a hazardous or poisonous gas. The person so permitted shall not store, dispose or treat, in any way, a solid waste or hazardous waste at the facility that creates a substantial danger of leakage into the groundwater, the air or any surface water area or creates substantial danger of any damage to any person or property.

(n) *Maintenance of buildings and equipment.* The person permitted shall not construct, operate or maintain any buildings or any equipment at the site location other than buildings and equipment appropriate and necessary for the construction, operations, maintenance, closure, and long-term care of the facility. No person shall be allowed to operate or maintain any business, occupation, enterprise or operation at the site location except the specific disposal, specific storage or specific treatment operations authorized by the County.

(o) *Filling holes and ponds.* The person permitted shall make all reasonable efforts to cover with fill material all holes or ponds within the facility to the existing topography, except for the active fill area and except for any sedimentation basin designed and constructed to accept water from the facility. There is no allowance for the discharge of water from the sedimentation basin into any surface water discharge area at or near the facility until the surface water discharge area has been approved by the State Department of Natural Resources.

(p) *Removal of topsoil.* The person permitted shall maintain and not remove or cause to have removed from the facility, except at the active fill area, any topsoil. Any topsoil removed from the active fill area shall not be removed at any time from the facility.

(q) *Landscaping and planting.* The person permitted shall provide and maintain sufficient

landscaping and planting for the purpose of providing natural noise and natural aesthetic visual barriers at the facility.

(r) *Berms.* The person permitted shall plant and replant as necessary all appropriate berms, if any, with grass or other vegetation to prevent or reduce erosion at or near the berms.

(s) *Inspections.* The person permitted shall allow the County or its designated representative access to the site location for inspections at any reasonable time that access is requested. The person so permitted shall provide the County, whenever an analysis of solid waste, hazardous waste, soils, leachate, groundwater, surface water or dust is reasonably necessary to secure conformance with this chapter or to detect violations of the chapter, samples of the above-noted materials for such analysis.

(t) *PCBs, dioxins or radioactive material.* No person, including the person permitted, shall dispose, store or treat any polychlorinated biphenyls (PCBs), any dioxins or any radioactive material at a solid waste facility or at a hazardous waste facility or at any other location within the County.

(u) *Telephone and electrical services required.* The person permitted shall install and maintain telephone and electrical services at the facility. Automatic security lights shall be provided.

(v) *Required warning signs.* The person permitted shall install and maintain at or near the entrance to the solid waste facility a sign which shall contain a statement in large letters of at least 12 inches in height that reads: "NO HAZARDOUS AND OTHER UNAUTHORIZED SOLID WASTE IS ACCEPTED."

(w) *Prohibited signs; exception.* The person permitted shall not construct, install or maintain any signs that will give notice to the public of the existence of the solid waste facility or of the hazardous waste facility, or will describe the location of the facility except those signs otherwise noted in this chapter and except those signs required by the State Department of Natural Resources and except those signs approved by the County.

(x) *Open burning.* The person permitted shall not allow at any time open burning at the facility unless with written approval of the County Planning, Zoning, Land and Water Conservation Committee. (Ord. No. 1998-4, §VIII(C), 6-16-1998)

Sec. 54-75. Financial requirements.

(a) A person permitted by the County to construct, operate and maintain a solid waste facility or a hazardous waste facility shall reimburse the County for all additional reasonable costs incurred by the County above and beyond the costs and services normally provided or incurred at no cost by the County to residents of the County in the responding to or acting upon specifically any fires, discharges, explosions, accidents, hazards and other emergency needs at the solid waste facility or at the hazardous waste facility. The County, after incurring these services and costs, shall determine the reasonable costs to be reimbursed by the person so permitted. These services and costs provided may include necessary and reasonable services and costs not requested by the person so permitted, its officers, its employees, its agents and its authorized transporters, but may be services incurred by the County through its lawfully delegated power to protect public health, welfare and safety in the County and to protect the natural resources of the County.

(b) The County, as a condition of the permit, during the permit period, shall not be obligated, nor shall it have any duty or responsibility in any way to the so permitted person, its officers, its employees, its agents, its assigns or its authorized transporters to acquire or supply any additional or specialized

machinery or equipment to be used for occurrences such as fires, accidents, explosion discharges or hazards, or to be used for the other emergency needs at or near the solid waste facility or at or near the hazardous waste facility, all which may occur due to transportation to and from, disposal, construction, maintenance, operation, closure and long-term care of the facility.

(c) The County, as a condition of the permit, shall not be obligated, nor shall it have any duty or responsibility in any way to the so permitted person, its officers, its employees, its agents, its assigns or its authorized transporters to employ or retain any additional or specialized personnel to be used for discharges or hazards or to be used for other emergency needs at or near the solid waste facility or at or near the hazardous waste facility, all of which may occur due to the transportation to and from, disposal, construction, operations, maintenance, closure, and longterm care of the solid waste facility or of the hazardous waste facility.

(Ord. No. 1998-4, §VIII(D), 6-16-1998; Ord. No. 2013-4, §§3, 7, November 4, 2013)

RESERVED

Chapter 58

Reserved

* Cross References:

RESERVED

Chapter 62

LAND DIVISION

* **Cross References:** Buildings and building regulations, ch. 10; environment, ch. 18; floods, ch. 26; streets, sidewalks and other public places, ch. 58; utilities, ch. 74; waterways, ch. 78; zoning, ch. 82.

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ARTICLE I.
IN GENERAL

Sec. 62-1. Title.

This chapter shall be known as the “Calumet County Land Division Ordinance”, hereinafter referred to as “this chapter”.

Sec. 62-2. Authority.

This chapter is adopted pursuant to the authority granted by sections 59.69, 59.692(3), 281.31, 236.45, and 703.115 Wis. Stats.

Sec. 62-3. Purpose.

The purpose of this chapter is to regulate and manage the division of land within the unincorporated areas of Calumet County for the following reasons:

- (a) To guide the future growth and development of Calumet County in accordance with the adopted Calumet County comprehensive plan and other county plans;
- (b) To facilitate the orderly and beneficial development of the county through well planned land divisions consistent with workable design standards;
- (c) To meet demand for rural residential housing while preventing overcrowding of the land and undue congestion of the population through the use of maximum residential density limits.
- (d) To further the orderly layout of land through the establishment of reasonable standards of design and procedures for land divisions;
- (e) To ensure accurate legal descriptions and proper monumenting of subdivided land;
- (f) To assure the provision of needed public open spaces and building sites in land developments through the dedication or reservation of land for recreational, educational and other public purposes.
- (g) To prevent and control erosion, sedimentation, and other pollution of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard potable water supplies; and to encourage the wise use and management of natural resources through the county;
- (h) To preserve the natural beauty, topography and prime agricultural farmland of the county and to encourage appropriate development with regard to these features;
- (i) To ensure adequate provision of efficient transportation, water, sewerage, stormwater drainage, schools, recreation, and other facilities;
- (j) To ensure that the design of the transportation system will not have a negative long-term effect on neighborhood quality, traffic and pedestrian movement, and safety;
- (k) To secure safety from fire, flood, and other dangers; and

(l) To promote the public health, safety, general welfare, and environmental quality of Calumet County.

Sec. 62-4. Applicability, Jurisdiction and Administration.

(a) Applicability. No land division shall be permitted if it results in a subdivision, unless a plat or a certified survey map is submitted and approved in accordance with this chapter and Ch. 236, Wis. Stats.

(b) Jurisdiction.

(1) Unincorporated Areas. The provisions of this chapter shall apply in all unincorporated areas of Calumet County. Plats shall be approved and signed by the Committee and certified survey maps shall be approved and signed by the Land & Water Conservation Department unless deferred by the Land & Water Conservation Department to the Committee for approval.

A. Where the governing body of a town within Calumet County has enacted an ordinance regulating land divisions, compliance must be made with the most restrictive requirements as provided in s. 236.13(4), Wis. Stats.

(2) Incorporated Areas. Preliminary and final plats located in all incorporated municipalities shall be submitted with fees to the Land & Water Conservation Department, as provided by s. 236.12(2)(b), Wis. Stats., for the purpose of determining whether the Land & Water Conservation Department has any objection to the plat. The Land & Water Conservation Department reserves the right to defer its decision-making authority to the Committee. The basis for any objection to any such plat shall be that the plat conflicts with parks, parkways, expressways, major highways, airports, drainage channels, schools or other planned public developments.

(c) Administration. The administration of the provisions of this chapter shall be the responsibility of the Calumet County Land & Water Conservation Department.

Sec. 62-5. Abrogation and Greater Restrictions.

(a) Any amendments, repeals or recreations of the statutes relating to this chapter are incorporated into this chapter by reference as of the effective date of the amendment, repeal or recreation.

(b) Wherever this chapter imposes greater restrictions than other similar regulations, the provisions of this chapter shall govern.

Sec. 62-6. Severability.

It is intended that the provisions of this chapter be severable and should any portion be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or portions thereof, which are not specifically declared to be invalid or unconstitutional.

Sec. 62-7. Effective Date.

This chapter shall immediately go into effect on the day following its enactment.

Sec. 62-8. Definitions.

(a) *Word Usage.* In the interpretation of this chapter, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) The word “shall” is mandatory.
- (5) The word “may” is permissive.

(b) *Definitions.* When used in this chapter, the following terms shall have the meanings herein assigned to them. Words used in this chapter, but not defined herein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it. For purposes of easy reference within this section, the following terms will appear in italicized print.

Agricultural Use. Utilization of natural resources for the purpose of raising and selling basic food stuffs and goods for conversion to other forms. Examples of an agricultural use include, but are not limited to, beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forestry and/or game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in Federal programs in return for payments in kind; owning land, at least 35 acres of which is in a farmland preservation program or enrolled in the conservation reserve program; participating in the milk production termination program; and vegetable raising. Agricultural use does not include the extensive processing of raw goods.

Block. A parcel, lot, or group of lots existing within well-defined and fixed boundaries bounded on at least one side by a street, bounded on the others sides by streets, natural or manmade barriers, or unplatted land and having an assigned number, letter, or other name through which it may be identified.

Buffer. An area of open space maintained between distinct land uses, which shall not contain houses or any other type of structures.

Building. An enclosed structure, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and which is affixed to the ground.

Business Day. A day the Land & Water Conservation Department is routinely and customarily open for business.

Calumet County Coordinate System. The Calumet County Coordinate Reference System follows the Wisconsin Coordinate Reference Systems (WISCRS) as published by the Wisconsin State Cartographer’s Office, 2009:

Units	U.S. survey feet
Scale factor on CM	1.0000286569
Origin longitude	43°43'10"
Origin latitude	42°43'10"
False easting	802999.999 U.S. survey feet (244754.8893 meters)
False northing	0.016 U.S. survey feet (0.0049 meters)

Calumet County GreenPrint Map. A web-enabled map showing the relative ecological importance of each parcel of land in the county.

Calumet County Zoning Ordinance. Ch. 82 of the Calumet County Code of Ordinances.

Certified Survey Map. A map of land division prepared in accordance with s. 236.34, Wis. Stats. and in full compliance with the applicable provisions of this chapter.

Cluster or Clustering. A site-planning technique that concentrates buildings and/or lots in specific areas on a lot, parcel or tract of land to allow the remaining land to be used for recreation, agriculture, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings and/or lots may include, but shall not be limited to, density regulations, shared access points, and maximum lot size requirements, with the resultant open space being devoted by deed restriction for one or more limited uses.

Cluster Subdivision. A residential development that concentrates buildings and/or lots on a part or parts of the site to allow the remaining land to be used for open space, recreation, protection of environmental features, agriculture or other purposes, where the density regulations are applied to the project as a whole instead of to individual lots.

Combining Parcels. The act of creating a single lot description and tax parcel out of two (2) or more separately described parcels.

Committee. The Calumet County Planning, Zoning, Land and Water Conservation Committee.

Common Ownership. Parcels held in similar title. For example: R. Smith and S. Smith have common ownership with property titled as Ralph Smith and Susie Smith, or Mr. and Mrs. Ralph Smith. However, R. Smith and S. Smith do not have common ownership with R. Smith, L.L.C., or R. Smith Trust.

Condominium. Property subject to a condominium declaration established under Ch. 703, Wis. Stats.

Condominium Instruments. The declaration, plats and plans for a condominium together with any attached exhibits or schedules, and any amendments or addendums that modify a recorded condominium declaration or plat, as defined in Ch. 703, Wis. Stats.

Contiguous Parcels. Two (2) or more parcels that have at least one (1) point in common ownership or which are intended by legal description to abut or adjoin by at least one (1) point in common ownership.

County. Calumet County, Wisconsin, including any employee, agency, department or committee thereof.

County Planner. An authorized representative of the Land & Water Conservation Department hired by Calumet County to carry out the assigned responsibilities of this chapter.

County Plat. A map of a land division prepared in the same manner as required in Ch. 236, Wis. Stats., except that all reviews are completed at the local level, in accordance with the terms of this chapter and where:

- (a) The act of division creates five (5) or more lots, of which no more than four (4) lots are one and one half (1½) acres or less in area; or
- (b) Five (5) or more lots, of which no more than four (4) lots one and one half (1½) acres or less in area are created by successive division within a period of five (5) years.

Dead-end Street. A street having only one outlet for vehicular traffic and no permanent vehicular turnaround.

Declarant. Any individual, firm, association, syndicate, partnership, corporation, guardian, attorney, trust, condominium declarant or any other legal entity commencing proceedings under the provisions of this subchapter to record a condominium instrument with the Calumet County Register of Deeds.

Declaration. The instrument by which a property becomes subject to this chapter, and that declaration as amended from time to time.

Density Management Boundary. Those areas identified where more intensive or higher density land subdivisions will be allowed based on sewer service area planning.

Density Map. A map approved by the Calumet County Board of Supervisors, on file in the Land & Water Conservation Department and incorporated herein by reference, which establishes the maximum residential density for each parcel in Calumet County.

Development. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mine, excavation, landfill or land disturbance; and/or any change in use, or alteration or extension of the use of land.

Easement. A legal or equitable right acquired by the owner of one piece of land (the *dominant* estate) to use another's land (the *servient* estate) for a special purpose.

Expandable Condominium. A condominium to which additional property or units or both may be added in accordance with the provision of a declaration, Ch. 703, Wis. Stats, and this chapter.

Extraterritorial Plat Approval Jurisdiction. The unincorporated area within three (3) miles of the city limits of a city of the first, second or third class if the city has a land division ordinance or official map, or within one and one half (1½) miles of the corporate limits of a city of the fourth class or a village, if the city or village has a land division ordinance or official map. (Note: All incorporated municipalities in Calumet County, except the cities of Appleton, Kaukauna, and Menasha, are in the category of "fourth class city or village." The City of Appleton is in the category of "second class city" and the cities of Kaukauna and Menasha are in the category of "third class city.")

Farmland Preservation Agreement. Any of the following agreements between an owner of land and the State of Wisconsin Department of Agriculture, Trade and Consumer Protection under which the owner agrees to restrict the use of land in return for tax credits:

(a) A farmland preservation or transition area agreement entered into under s. 91.13, 2007, Wis. Stats., or s. 91.14, 2007, Wis. Stats.

(b) An agreement entered into under s. 91.60(1), Wis. Stats.

Farm Residence. Any of the following structures that is located on a farm:

(a) Single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

(1) An owner or operator of the farm.

(2) A parent or child of an owner or operator of the farm.

(3) An individual who earns more than fifty (50) percent of his or her gross income from the farm.

(b) A migrant labor camp that is certified under s. 103.92, Wis. Stats.

Final Plat. A plat of a subdivision prepared in compliance with Ch. 236, Wis. Stats., and this chapter.

Five Year Period. Sixty (60) successive calendar months.

Frontage. The linear dimension of a lot abutting a road measured along the right-of-way line.

Grade. The slope of a road, street, or other public way specified in percent.

Gross Acreage. The total area of a parcel including the area of all public road right-of-ways.

Growth Management Boundary. Those areas identified where more intensive or higher density land subdivisions will be allowed, based on sewer service area planning.

Growth Management Map. A map approved by the Calumet County Board of Supervisors, on file in the Land & Water Conservation Department and incorporated herein by reference, which establishes long-term and short-term growth areas in Calumet County based on sewer service area planning.

Hamlet. An unincorporated rural community.

Homeowners Association. A community association, incorporated or not incorporated, combining individual home ownership with the shared use or ownership of common property or facilities.

Land Division. The process of creating one (1) or more lots, or parcels from one (1) or more preexisting lots, parcels or tracts of land.

Limited Common Element. A common element identified in a declaration or on a condominium plat as reserved for the exclusive use of one (1) or more but less than all of the unit owners.

Lot. A parcel of land numbered in sequence with other parcels shown on a plat or certified survey map.

Lot Width. The horizontal distance of a line, which connects 2 side lot lines, runs through the building zone of the lot, and is perpendicular to the line bisecting the angle formed by the side lot lines. For lots with parallel side lot lines, the lot width is the perpendicular distance between the side lot lines.

Lowest Building Opening (L.B.O.). The elevation of the lowest window, door or other inlet at which water may enter a building.

Major Subdivision. A subdivision resulting in the creation of five (5) or more lots created by successive divisions from the parent parcel within a period of five (5) years.

Maximum Residential Density. The maximum number of lots allowed per acre on an original tract as prescribed through the Calumet County Zoning Ordinance or the Calumet County Density Map, which ever is applicable.

Minor Subdivision. A subdivision resulting in the creation of four (4) or less lots created by successive divisions from the parent parcel within a period of five (5) years.

Net Lot Area. The total square footage of any lot or parcel, less the square footage of all right-of-ways or easements for roadways.

Non-Prime Farmland. Any of the following:

- (a) An area other than class I or class II land capability classifications as shown by the Natural Resources Conservation Service of the Federal Department of Agriculture in the Calumet County and Manitowoc County Soil Surveys.
- (b) Land, other than land described in par. (a), that is identified as non-prime farmland, as shown on Map C of the Calumet County Farmland Preservation Plan.

Non-Profit Conservation Organization. Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Official Map. A map indicating the location, width, extent of the existing and proposed streets, highways, parkways, parks and playgrounds adopted by the municipalities in Calumet County, in accordance with s. 62.23(6), Wis. Stats.

Original Tract. Contiguous parent parcels held in common ownership prior to the effective date of this chapter.

Open Space. Land within a subdivision or development retained for use as recreation areas, agriculture, or for natural resource protection in an essentially undeveloped state.

Outlot. A lot remnant or parcel of land within a plat or certified survey map remaining after platting for which no development is intended.

Parent Parcel. A legally created parcel, lot or tract of land that existed prior to the effective date of this chapter which the enclosing boundaries are separately described and are either of record in the Office of

the Calumet County Register of Deeds or defined by an existing tax parcel. A parent parcel completely severed by a public right-of-way shall be construed to comprise two (2) separate parcels.

Parcel. An area of land described in a single description in a deed or lot or outlot on a plat or certified survey map, separately owned or capable of being separately conveyed.

Plat. A map of a major subdivision prepared in accordance with Ch. 236, Wis. Stats. and this chapter.

Planned Development. An area of land controlled by a single owner, corporation, or any other legal entity to be developed as a single entity for a number of buildings, the plan for which is unique in its mixture of land uses and open spaces and not specifically provided for by applying customary road, block and lot requirements of this chapter or applicable Zoning Code.

Preliminary Plat. A map showing the salient features of a proposed plat submitted to the Committee and other approving agencies for purposes of preliminary consideration.

Prime Farmland. Any of the following:

(a) An area with a class I or class II land capability classification as shown by the Natural Resources Conservation Service of the Federal Department of Agriculture in the Calumet County and Manitowoc County Soil Surveys.

(b) Land, other than land described in par. (a), that is identified as prime farmland, or prime if drained/not flooded, as shown on Map C of the Calumet County Farmland Preservation Plan.

Replat. The process of changing, or the plat or certified survey map which changes, the boundaries of a recorded plat, or certified survey map, or part thereof. The legal dividing of a large block, lot or outlot within a recorded plat or certified survey map without changing exterior boundaries of said block, lot or outlot is not a replat.

Residential Dwelling Unit. A building or portion thereof, which provides or is intended to provide living quarters exclusively for one (1) family. A duplex shall be considered one (1) dwelling unit for purposes of determining base development yield.

Land & Water Conservation Department. The Calumet County Land & Water Conservation Department.

Road. A dedicated and accepted right-of-way for vehicular traffic, whether designated as an avenue, boulevard, street, highway, expressway, land, alley, or any other way and for the purpose of this chapter, "roads" are divided into the following categories:

(a) Arterial Road. A road, which connects collector roads within the county. The major purpose of which is to move traffic but may serve secondary purposes.

(b) Collector Road. A road whose primary function is to carry traffic from local roads to arterials. It provides for movement within and between developed areas.

(c) Local Road. A road used primarily for access to abutting properties.

- (d) Private Road. A local roadway serving a minimum of three (3) abutting lots, not publicly dedicated or maintained by the county, town, city or village in which it is located but meeting specific municipal improvement standards, and providing access for service and emergency vehicles.
- (e) Cul-de-sac. A local road with only one (1) outlet sometimes called a dead-end street.
- (f) Alley. A public or private right-of-way, which provides secondary access to abutting properties.

Shadow Plat. A conceptual development plan, drawn to the specifications of Sec. 62-29, *Preliminary Plat*, for a major subdivision or drawn to specifications of Sec. 62-31, *Certified Survey Maps*, for a minor subdivision and approved by the Committee, town, and the adjoining city or village having extraterritorial plat approval jurisdiction, that guides the future development of land at full urban densities for which partial development is sought in the short-term. Shadow plats show the lots, blocks and streets necessary to attain future urban residential development at urban densities while allowing the placement of buildings and access in the interim.

Shorelands. Those lands which are located within one-thousand (1,000) feet of the ordinary high water mark of a navigable lake, pond, or flowage; or within three-hundred (300) feet of the ordinary high water mark of a navigable river or stream, or to the landward side of the flood plain of the river or stream, whichever distance is greater.

Site Plan. The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.

State Subdivision. The division of a lot, parcel or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where:

- (a) The act of division creates five (5) or more parcels or building sites of one and one half (1½) acres each or less in area; or
- (b) The act of division creates five (5) or more parcels or building sites of one and one half (1½) acres each or less in area by successive division within a period of five (5) years.

Structure. Anything constructed, erected, manufactured, or moved, the use of which requires a more or less permanent location on or in the ground.

Subdivider. The person, firm, or corporation having such a proprietary interest in the land to be subdivided as well as authorize the maintenance of proceedings to subdivide such lands under this chapter, or the authorized agent of such person, firm or corporation for the purpose of proceeding under this chapter.

Subdivision. A division of a lot, parcel or tract of land by the subdivider for the purpose of transfer of ownership or building development. A subdivision can be created by the following means:

- (a) Recording a plat or certified survey map.
- (b) Recording any other document or instrument that creates a parcel not previously created pursuant to this chapter or its predecessor.
- (c) Foreclosure of a mortgage or a land contract if the foreclosure creates and/or conveys a parcel not previously created pursuant to this ordinance or its predecessor. This subsection is not to be

construed as endorsing a policy encouraging rezoning or subdividing of a parcel as a prerequisite to obtaining a mortgage when inconsistent or incompatible with surrounding zoning or uses.

Tax parcel. An existing tract of land as defined by the governing jurisdictional body for the purpose of assessment and taxation.

Tax parcel number. An identification number assigned by the Calumet County Treasurer to real estate in Calumet County for taxation purposes.

Tract. A lot or parcel of land.

Town. Any town in Calumet County, including the Town Board, Town Clerk and any other designated Town Committee.

Unit. A part of a condominium intended for any type of independent use, including one (1) or more cubicles of air at one (1) or more levels of space or one (1) or more rooms or enclosed spaces located on one (1) or more floors, or parts thereof, in a building. A unit may include two (2) or more noncontiguous areas.

Wetlands. Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. Wetlands recognized for purposes of this chapter are those two (2) acres or greater as shown on the Wisconsin Department of Natural Resources Wisconsin Wetland Inventory Maps.

Sec. 62-9. Compliance With Ordinances, Statutes, Regulations And Plans.

(a) Any subdivider dividing land, which results in a major subdivision, shall prepare a plat of the subdivision. Any subdivider dividing land, which results in a minor subdivision, shall prepare a certified survey map. Any such plat or certified survey map shall be prepared in accordance with the requirements of this chapter and with any State of Wisconsin Statutes or Administrative Codes, all County Codes and Ordinances, the adopted Calumet County comprehensive plan, and the official map of any town, village, city or governmental unit having jurisdiction.

(b) To the extent that this chapter contains time limits, deadlines, notice requirements, or other provisions that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Ch. 236, Wis. Stats., the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Ch. 236, Wis. Stats. shall apply.

Sec. 62-10. Exemptions.

(a) The following are exempt from this chapter provided the requirements in sub. (b), (c) and (d) are satisfied:

(1) The creation of less than five (5) parcels for purposes of executing terms of a will or court order. The Land & Water Conservation Department shall periodically request local courts to order parties to obtain advisory review of land divisions created by will or court order for compliance with this chapter prior to the issuance of a court order.

(2) Leases creating less than five (5) parcels for a term not to exceed ten (10) years, mortgages or easements.

- (3) The sale or exchange of parcels of land between owners of abutting property is exempt:
- A. If additional lots are not thereby created;
 - B. If the parcels resulting are not reduced below the minimum lot length, width and area dimensions required by this chapter or other applicable laws or regulations;
 - C. If the parcels resulting are not enlarged where a maximum lot area dimension density bonus was claimed under Sec. 62-23(c)(1)(D) or where no other provisions of this chapter have been violated.
- (4) Cemetery plats made under s. 157.02, Wis. Stats.
- (5) Assessors' plats made under s. 70.27, Wis. Stats.
- (b) The recording instrument shall identify the specific exemption claimed. Anyone using an exemption described in this section shall be subject to prosecution under this chapter if the Land & Water Conservation Department subsequently determines that the exemption was not available.
- (c) A parcel or lot created by virtue of any exemption under this section is not exempt from other applicable regulations.
- (d) The resulting recording instrument shall be submitted to the Land & Water Conservation Department for informational purposes, with no county approval action required.

Sec. 62-11 – Sec. 62-13. Reserved.

ARTICLE II.

LAND DEDICATION, LAND SUITABILITY, ENVIRONMENTALLY SENSITIVE AREAS, SEWER AND WATER

Sec. 62-14. Dedication and Reservation of Lands.

- (a) Dedication of Lands for Roads And Public Ways. Whenever a land division contains all or in part, a road, drainage way, trail, other public way, or public access to navigable lakes or streams, which has been designated on duly adopted city, village, town, county, regional or state plans or in an official map adopted under s. 62.23, Wis. Stats., it shall be platted and dedicated in the locations and dimensions indicated in said plan or map and as set forth in this chapter.
- (b) Dedication of Lands for Public Recreation Within Residential Plats. If a town has adopted an ordinance with their own land dedication requirements, the applicant shall comply with the town regulations and shall be exempt from the regulations of sub. (1).
- (1) Dedication as a condition of plat approval. Calumet County requires the dedication of land or monies in lieu of land when such plat is located within the unincorporated areas of the county for public recreation purposes as follows:

A. The subdivider shall designate on every new residential preliminary plat of a major subdivision, a parcel of land equal to a minimum of five (5) percent of the gross area of all property proposed for subdivision. The land shall be suitable for trail, park or playground purposes, and be dedicated to the public as part of the initial final plat. The town within which the major subdivision is located shall have the first option of accepting the land dedication, or shall turn that option over to the county. If both jurisdictional authorities waive the land dedication, the town shall have the first option of accepting the monies in lieu thereof, or shall turn that option over to the county. Where the accepting jurisdictional authority agrees to accept money for trail, park or recreation purposes in lieu of land, the specific amount of money shall be set as a general standard by the accepting jurisdictional authority, but in no case should the minimum amount be less than the last official equalized value of the required public land area. Fifty (50) percent of the fee shall be due at the time of final plat approval and the other fifty (50) percent shall be due prior to recording of the plat.

1. In lieu of public land dedication, the subdivider may provide the required amount of park or open space area through a homeowners' association, condominium association, or similar organization, providing such measures assure the proper and continuing maintenance and use of the area, meet the purposes of this section, and are approved by the applicable town and the Committee.

2. At the time of accepting the land dedication, the maintenance of said land dedication shall be responsibility of the accepting jurisdictional authority. If the accepting jurisdictional authority does not agree by simple motion, resolution, or ordinance to maintain the land dedication or any portions thereof, they shall designate a users group, non-profit organization, individual, family or similar body as the party responsible for its maintenance.

B. The applicable town and the Committee may waive the requirement for dedication of land for parks or open space if it determines that the proposed or available park or open space would be too small, unsuitable, or unnecessary for reasons particular to the land division or the neighborhood in which it is located. In lieu of that public land dedication, the subdivider shall pay a fee as described in sub. (b)(1)(A), at the time of final plat approval.

(2) Exemptions. Cluster subdivisions developed in accordance with Sec. 62-35, *Cluster Subdivisions*, shall be exempt from sub. (b)(1).

(c) Reservation of Lands for Parks, Playgrounds, School Sites or Public Sites. Whenever a parcel to be divided as a subdivision contains all or in part a site which has been designated in a county, regional, or state plan or on an official map as a park, playground, school site or other public site and the area of the site shown in the county plan or the official map is greater than the area, if any, required by sub. (b)(1) the excess area shall be reserved for a period of two (2) years from the date of approval of the final plat or certified survey map for acquisition by the governing body or other appropriate agency having the authority to purchase the property. The owner shall be free to develop said property should acquisition not occur within the prescribed two (2) years.

Sec. 62-15. Land Suitability.

(a) No land shall be divided or subdivided for a developed use if the resulting lots are determined to be unsuitable for development by the Land & Water Conservation Department for reason of flooding or potential flooding, adverse soil or bedrock formations, severe erosion potential, unfavorable topography, inadequate drainage, inadequate water or sewage disposal capabilities, or any other condition likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision. A portion

of a proposed lot may contain such conditions, provided the overall lot is not deemed unsuitable for development. The Land & Water Conservation Department may require restrictions on all lots and/or deeds regarding development where a lot or portion thereof has been deemed unsuitable.

(b) Except as provided in sub. (d), the Land & Water Conservation Department shall determine such unsuitability at the time the preliminary plat or certified survey map is considered for approval.

(c) The Land & Water Conservation Department staff, in applying the provisions of this section, shall consider the various provisions of this chapter and other county, state, or local regulations. The Land & Water Conservation Department shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence to the contrary and/or the means of overcoming such unsuitability, if subdivider so desires at a meeting of the Committee. Thereafter, the Committee may affirm, modify, or withdraw the determination of unsuitability.

(d) The subdivider may, prior to submitting a subdivision plat or certified survey map for review, request a determination of land suitability. The subdivider shall provide all necessary maps, data, and information for such a determination to be made.

Sec. 62-16. Environmentally Sensitive Areas.

(a) Environmentally sensitive areas shall consist of the following features:

(1) Wetlands.

(2) Land within seventy-five (75) feet of wetlands.

(3) Floodways plus seventy-five (75) feet (but not beyond the floodplain boundary) or seventy-five (75) feet beyond the ordinary high water mark, whichever is greater.

(4) Land within seventy-five (75) feet of navigable waters or when averaging is allowed in accordance with the Calumet County Zoning Ordinance.

(5) Steep slopes of twenty (20) percent or greater.

(6) Areas identified as “High” and “Highest (areas of thin soil)” in the Silurian aquifer of the Aquifer-Susceptibility Index shown on the “*Water-Table and Aquifer-Susceptibility Maps of Calumet County, Wisconsin*”- Wisconsin Geological and Natural History Survey, 2006.

(7) Sinkholes.

(8) Exposed bedrock.

(9) Land with less than five (5) feet of soil over bedrock. The Calumet County Land & Water Conservation Department shall decide the best available method for determining soil depth for the land division.

(10) Publicly-owned parks and wildlife areas.

(11) Areas identified in the *Wisconsin Land Legacy Report* and where rare plants, animals, and natural communities are known to be located as identified in *Wisconsin's Natural Heritage Inventory*.

(12) Steep slopes between twelve (12) percent and less than twenty (20) percent that are immediately adjacent to or extend into any of the features listed above.

(b) Environmentally sensitive areas shall be shown and/or noted on all plats and certified survey maps. Restrictions may be required by the Land & Water Conservation Department or Committee on all plats, certified survey maps, and/or deeds regarding development and land-disturbing activities within environmentally sensitive areas. Notes or disclaimers may be included on plats and certified survey maps indicating that the extent of the environmentally sensitive area is subject to change due to the granting of amendments, revisions to the definition of environmentally sensitive areas, or provision of more detailed information, such as flood studies.

(c) When a proposed land division is located wholly or partly in an area where flooding or potential flooding may be a hazard, floodplain lines and, where calculated, floodway lines shall be shown on plats and certified survey maps. Floodplain boundaries as determined by the subdivider shall be reviewed and approved by the Wisconsin Department of Natural Resources.

Sec. 62-17. Land Divisions Not Served By Public Sewer.

(a) Except as provided in sub. (b), for each proposed land division not served by public sewer, a soil test complying with SPS 383 and SPS 385, Wisconsin Administrative Code, shall be submitted for each proposed lot when a final plat or certified survey map is submitted for approval. A soil test waiver may be granted by the Land & Water Conservation Department and/or Committee for lots not intended for development or for lots served by an existing POWTS if there will be no ownership change of the existing dwelling unit(s). The waiver shall be a restrictive covenant stating the development restriction, which shall be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(b) Land divisions for public utilities and certain public facilities involving structures not requiring on-site waste disposal systems (e.g. water towers, pumping stations, power relay stations) and other land divisions where conditions warrant, as determined by the Land & Water Conservation Department, may be approved with the following required notation: "Restriction. The construction of structures which rely upon private on-site wastewater treatment systems for sanitary waste disposal shall be prohibited on this lot until all state and county regulations have been met and a sanitary permit has been issued by the Calumet County Land & Water Conservation Department." A restrictive covenant stating such restriction shall also be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(c) The Land & Water Conservation Department may require that the locations and dimensions of sites for private on-site wastewater treatment systems be identified on all plats and certified survey maps for those lots with limited suitable area.

(d) If the nitrate test results completed in accordance with Sec. 62-18, *Testing of Existing Wells*, exceed the public health groundwater standards of NR 140.10, Wis. Admin. Code, or if the land division is located in the Calumet County Groundwater Protection Area, a nitrate treatment system shall be included with every private on-site wastewater treatment system that is installed or replaced in the subdivision. A restrictive covenant stating such restriction shall be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(e) Existing Private On-Site Wastewater Treatment Systems.

(1) A complete evaluation of any existing private on-site wastewater treatment systems shall be performed in accordance with Sec. 74-41 of the Calumet County Code of Ordinances when an existing private on-site wastewater treatment system is part of a preliminary plat or certified survey map.

(f) Applications for plat or certified survey map approval shall not be considered a complete application until the test results of sub. (a) and the evaluation of sub. (e) are provided to and reviewed by the Land & Water Conservation Department. The results will be reviewed for compliance with Sec. 62-15, *Land Suitability*.

Sec. 62-18. Testing of Existing Wells.

(a) Comprehensive testing is required on any existing private well when said well is part of a plat or certified survey map. Lots created by Sec. 62-32, *Combining Parcels*, shall be exempt from this requirement. Comprehensive tests completed within six (6) months prior to the date the application for land division is received by the Land & Water Conservation Department will be accepted and considered valid.

(b). The comprehensive testing, which includes the taking of the sample and its processing, shall be performed by a certified water testing facility or licensed well and pump installer. The sample shall not be taken from a faucet connected to a water treatment device, water softener excluded.

(c) The comprehensive testing shall include coliform bacteria, nitrates, metals that are hazardous on human health (such as arsenic, lead, and mercury) and other contaminants (such as volatile organic compounds and radium) deemed necessary in specific locations by the Calumet County Land & Water Conservation Department.

(d) The Land & Water Conservation Department shall forward the comprehensive testing results to the Calumet County Land & Water Conservation Department for review. The results will be reviewed for compliance with Sec. 62-15, *Land Suitability*. Land & Water Conservation may recommend restrictions be included with the deed or placed on the face of the plat or certified survey map.

(e) Failure to submit the comprehensive testing results to the Land & Water Conservation Department shall result in denial of the plat or certified survey map.

(f) The comprehensive testing results of the existing well shall be included as a restrictive covenant, signed by the property owner and the County Planner or designee, and recorded with the Register of Deeds to inform the subsequent owner of the conditions of the well that previously serviced the property.

(g) Existing wells shall be in conformance with the Calumet County Private Water Systems Ordinance (Well Abandonment).

Sec. 62-19 – Sec. 62-22. Reserved.

ARTICLE III.

BASE DEVELOPMENT YIELD, DENSITY MANAGEMENT, AND GROWTH MANAGEMENT AREAS

Sec. 62-23. Base Development Yield.

(a) Base Development Yield. The base development yield shall establish the maximum number of lots, which may be created in a given residential subdivision, intended for existing and future residential dwelling units.

(1) Rounding Rule for Calculations. The following rounding rule shall be applied to all calculations of standards and requirements in this section unless otherwise specifically provided herein:

A. For acreages, fractional values of five (5) or greater shall be rounded up to the nearest whole unit, fractional values of four (4) or less shall be rounded down to the nearest whole unit.

B. For base development yield, fractional values shall be rounded down to the nearest whole unit.

(2) For the purpose of computing the base development yield, the number of lots for residential dwelling units on a parcel to be subdivided shall be determined in accordance with the following:

A. For a town, which has adopted the Calumet County Zoning Ordinance, the base development yield shall be determined by dividing the acreage of the original tract by the maximum residential density permitted in the zoning district where the original tract is located. Base development yield shall not be applicable in those districts where no maximum residential density is assigned.

B. For a town, which has not adopted the Calumet County Zoning Ordinance, the base development yield shall be determined by dividing the acreage of the original tract by the maximum residential density identified on the Calumet County Density Map. Land divisions shall be prohibited in a town where no maximum residential densities have been approved by the Calumet County Board of Supervisors and included on the Calumet County Density Map.

C. Where the original tract contains multiple differing maximum residential densities, the base development yield shall be determined by calculating the density for each portion individually with said base development yield applied to its portion.

D. Parcels that have entered into a farmland preservation agreement in compliance with Ch. 91, Wis. Stats., or are located within a farmland preservation zoning district shall not be allowed more nonfarm residential units than permitted by s. 91.46(2), Wis. Stats. For those parcels that have entered into a farmland preservation agreement or are located within a farmland preservation zoning district where 91.42(2), Wis. Stats., is not applicable, the base development yield shall be determined in accordance with sub. (A), (B) or (C). Farm residences shall be limited to the provisions of sub. (A), (B) or (C) for determining the base development yield.

(4) Undeveloped legal lots of record that existed prior to the effective date of this chapter shall be allowed a minimum of one (1) residential dwelling unit provided such use would not violate any other local and/or county zoning regulations or state statutes.

(5) Except for parcels that have entered into a farmland preservation agreement or are in a farmland preservation zoning district, the base development yield may be increased in accordance with sub. (b), *Cluster Subdivision Density Bonuses*.

(b) Cluster Subdivision Density Bonuses.

(1) Cluster subdivision density bonuses shall apply exclusively to those subdivisions developed in accordance with Sec. 62-35, *Cluster Subdivisions*. The following cluster subdivision density bonuses may be implemented in all towns except the Town of Woodville.

A. Where all lots of the subdivision are not located on prime farmland, a density bonus of two (2) points shall be granted.

B. Where the open space, if used for agriculture, has developed and is implementing a Nutrient Management Plan that meets the United States Department of Agriculture technical standards and where such implementation of the plan is found to be in compliance by the Calumet County Land & Water Conservation Department, a density bonus of two (2) points shall be granted.

C. Where the requirements of Sec. 62-14(b), *Dedication of Lands for Public Recreation Within Residential Plats*, are implemented, a density bonus of two (2) points shall be granted.

D. Where no lot in the subdivision exceeds a maximum lot size, exclusive of road right-of-ways, of:

1. One (1) acre, a density bonus of three (3) points shall be granted.

2. One and one half (1 ½) acres, a density bonus of two (2) points shall be granted.

3. Two (2) acres, a density bonus of one (1) point shall be granted.

E. Where a deed restriction is provided on each lot requiring the installation of shared sanitary sewage and water facilities for all the lots together within the subdivision, a density bonus of four (4) points shall be granted.

F. Where a new, public road servicing all lots of the subdivision is included on the plat or certified survey map, a density bonus of four (4) points shall be granted.

(2) Every four (4) points earned with the density bonuses listed in sub. (c)(1) shall equal one (1) additional lot (density bonus) to the base development yield. In no case, shall the total number of density bonuses exceed the base development yield allowed in sub. (a).

(3) The number of density bonus lots included on a plat or certified survey map shall not exceed the number of non-bonus lots on said plat or certified survey map.

Sec. 62-24. Density Management.

(a) Minor or major subdivisions where state approved public sanitary sewerage facilities are provided for all lots of the subdivision shall be permitted subject to the following conditions:

(1) The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and the servicing sewer district.

(b) Major subdivisions where state approved public sanitary sewerage facilities are not provided for all lots of the proposed new subdivision may be permitted within, but not beyond, any Density Management Boundary, as shown on the Density Map subject to the following conditions:

- (1) No more than nine (9) lots have been created from the parent parcel.
- (2) The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and any applicable servicing sewer district.

(c) Major subdivisions may be permitted beyond any Density Management Boundary, as shown on the Density Map, where state approved public sanitary sewerage facilities are not provided for all lots of the subdivision subject to all of the following:

- (1) The permitted base development yield of Sec. 62-23(a), *Base Development Yield*, was four (4) or less lots;
- (2) The subdivision plat has been designed in accordance with Sec. 62-35, *Cluster Subdivisions*;
- (3) The base development yield is increased to five (5) or more lots because of bonus lots claimed in Sec. 62-23(c), *Cluster Subdivision Density Bonuses*; and
- (4) The applicant secured approvals of the subdivision from the applicable town and the incorporated community having extraterritorial plat approval jurisdiction.

(d) Minor subdivisions where state approved public sanitary sewerage facilities are not provided for all lots of the proposed new subdivision may be permitted subject to either of the following conditions:

- (1) The subdivision is developed in accordance with Sec. 62-35, *Cluster Subdivisions*.
 - A. The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and any applicable servicing sewer district.

- (2) The subdivision creates no more than three (3) lots from the parent parcel in a five (5) year period provided the subdivision is in compliance with the base development yield.

(e) Where agreeable by the subdivider, approving agencies, and objecting authorities, a shadow plat may be created for minor and major subdivisions located within a Density Management Boundary, as shown on the Density Map, where state approved public sanitary sewerage facilities are not provided for all lots of the subdivision. A shadow plat shall include the following:

- (1) Lot design and size consistent with the comprehensive plan of the area.
- (2) The layout of future roads. Local roads shall be planned to provide road connections to adjoining parcels, neighborhoods, or future development open spaces as a means of discouraging the reliance on county and state roads for local trips.
- (3) Easement locations for utilities and stormwater drainage.

(4) Locations of buildings or structures on the lots to accommodate future subdivision.

(5) Information demonstrating how public utilities may be extended to the subdivision to accommodate future urban development.

Sec. 62-25. Growth Management Areas.

In an effort to preserve farmland and ensure the proper planning in the unincorporated areas of Calumet County, land divisions are encouraged to occur in areas identified as 'Short Term Town Growth Areas' on the Growth Management Map prior to areas identified as 'Long Term Sewer Service Areas,' unless the proposed land division in the 'Long Term Sewer Service Area' is served by a public sanitary sewer facility.

Sec. 62-26 – Sec. 62-27. Reserved.

ARTICLE IV.

LAND DIVISION PROCEDURES

Sec. 62-28. Replats.

When a replat of a recorded subdivision or part thereof is proposed so as to alter areas dedicated to the public, the subdivider shall initiate action to vacate or alter the recorded plat or certified survey map as provided by s. 236.36, Wis. Stats. The replat shall then be prepared and submitted as provided in Sec. 62-29, *Preliminary Plat*, and Sec. 62-30, *Final Plat*, of this chapter. Both the title of the replat and the title of the original plat shall appear in the surveyor's certificate.

Sec. 62-29. Preliminary Plats.

(a) Pre-Application Procedure. Whenever a major subdivision within Calumet County is proposed, the subdivider shall consult early and informally with the Land & Water Conservation Department for advice regarding general requirements affecting the proposed development. A sketch plan of the proposed major subdivision drawn on a topographic survey map shall be submitted. The sketch plan shall identify proposed roads; lots and any proposed dedications; environmentally sensitive areas; abandoned landfills; existing trees; soil classifications; and any proposed grading, filling, lagooning, or dredging. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing and officially mapped traffic arteries and trails and existing and planned community facilities.

(b) Procedure.

(1) Application. Prior to submitting a final plat for approval, the subdivider shall prepare a preliminary plat and file a written application for its approval with the Committee.

(2) Land & Water Conservation Department Plat Distribution. Ten (10) clearly legible copies of the preliminary plat shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the preliminary plat shall distribute copies of the plat as follows:

A. One (1) copy to the applicable Town Clerk.

- B. One (1) copy to the clerk of an adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.
- C. One (1) copy to the appropriate utility company(s).
- D. One (1) copy to the Calumet County Land & Water Conservation Department.
- E. One (1) copy to the Calumet County Highway Department.
- F. One (1) copy to the County Surveyor.
- G. One (1) copy to the Calumet County Sheriff's Department.
- H. One (1) copy to the Calumet County Emergency Management Department.
- I. One (1) copy to the Calumet County GIS Administrator.

(3) Subdivider Plat Distribution. The subdivider shall submit the original plat to the Wisconsin Department of Administration-Plat Review for distribution to agencies authorized to object in accordance with s. 236.12 (6), Wis. Stats.

(5) Review of Preliminary Plat.

A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (b)(2) that it has no more than forty-five (45) days from receipt of the plat to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the plat for conformance with this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the plat.

C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.

D. The Land & Water Conservation Department shall inform, in writing, the applicant, applicable Town Clerk and municipal clerk not less than five (5) days in advance of the date, time and place of the Committee meeting at which the plat will be reviewed.

E. Should the provisions of this chapter be amended while the plat is moving through the review procedures of sub. (b), the requirements in effect when the plat was submitted shall apply.

(5) Committee Decision.

A. The Committee shall, within ninety (90) days from the date a complete application and fee is received, approve, approve conditionally or reject the preliminary plat based on a determination of the content included on the plat as to its conformance with the provisions of this chapter. Failure of the Committee to act within said ninety (90) day period shall constitute an approval unless the time period is extended by agreement with the subdivider.

B. Department of Administration approvals may be required prior to plat approval.

C. The Land & Water Conservation Department shall notify the applicant and the applicable town and municipal clerks, in writing, of the Committee's decision.

(c) Preliminary Plat Content. The content required by this section shall assist the Committee with making a decision in accordance with sub. (b)(5). Each preliminary plat shall be based upon a survey by a registered land surveyor at a scale of not more than 100 feet to one inch, utilize the Calumet County Coordinate System, and cover the entire contiguous areas owned or controlled by the subdivider even if only a portion is proposed for development and show the data identified below on the face of the preliminary plat:

- (1) The exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a minimum of two corners established in the Calumet County Coordinate System, and the total acreage encompassed thereby.
- (2) The exterior boundaries and base development yield of the original tract.
- (3) The date, graphic scale and north point.
- (4) The name of the proposed plat, prominently labeled. The proposed subdivision name shall not duplicate the name of any plat previously recorded in Calumet County. A subtitle of "County Plat" shall be required for all county plats and a subtitle of "State Plat" shall be required for all state plats.
- (5) The location of the plat by government lot, quarter-quarter section, section, township and range and the town, County and state of jurisdiction, noted immediately under the name of the subdivision
- (6) The name and contact information of the subdivider, subdivider's agent, engineers, surveyors, and other contractors/subcontractors.
- (7) The owner of record and the identity of any proposed contract purchaser.
- (8) The names, locations and right-of-way widths of any existing or officially mapped roads, trails or other public or private ways, easements, railroad or utility right-of-ways included within or adjacent to the proposed plat.
- (9) Existing road access restrictions and any existing access control limitations. These shall be explained within the application material and noted on the face of the plat.
- (10) All proposed road names and access to the newly created lot(s).
- (11) The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, rivers, environmentally sensitive areas, prime farmland, wooded areas, historic and archeological features, effigy mounds, native prairie remnant and any other significant limiting features or characteristics within the proposed subdivision.
- (12) All floodplain boundaries.
- (13) Private and municipal landfills, existing and/or abandoned underground fuel or petroleum storage tanks, areas of known groundwater contamination, location of all existing, abandoned and unused wells, including advisory wells, and any WDNR Designated Special Deep Casing Well Depth Requirement Areas.

- (14) The contours, on an established datum, at vertical intervals of not more than two (2) feet.
- (15) The identification, location and dimensions, including acreage, of all parks, parkways, playgrounds, drainage ways, stormwater ponds or other common areas whether proposed for dedication to the public or remaining privately owned.
- (16) Dimensions and size of all lots, and proposed lot and block numbers. Where applicable, size shall be indicated with inclusion and exclusion of right-of-ways and areas below the ordinary high water mark of navigable waters.
- (17) A list or depiction showing the following information for each proposed lot:
- A. Existing and intended land use.
 - B. Existing and intended zoning, including overlay districts, if applicable.
 - C. Required minimum lot area and lot widths under intended zoning.
 - D. All required easements.
 - E. All required setbacks, if applicable.
 - F. Lowest Building Opening (LBO), if known, for lots adjacent to an ordinary high water mark, drainage easement or floodplain.
- (18) Identification of all proposed outlots.
- A. Indicate proposed purpose and proposed ownership and control of each outlot.
 - B. All outlots that have deed restrictions, covenants and/or conservation easements shall be referenced on the plat and copies of such draft documents shall be provided.
- (19) Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Committee, Land & Water Conservation Department and/or any other approving or objecting agency.
- (20) Additional submittals. The following additional submittals shall be submitted as part of the preliminary plat application:
- A. Preliminary construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.
 - B. A location on each lot that will accommodate an on-site wastewater treatment system and its replacement as indicated by soil borings for subdivisions not served by public sanitary sewerage facilities.
 - 1. When private on-site wastewater treatment systems serving single lots are intended, at a minimum, one (1) boring for every three (3) acres throughout the plat is required to demonstrate soil suitability.

C. When a common wastewater treatment system is proposed, a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling shall be provided. When a common water system is proposed, a complete site and design evaluation approved by the state shall be provided. A sewer and/or water supply management plan shall be provided; which estimates service contract needs, insurance requirements, replacement and other associated costs and defines the means for funding and enforcing the same on an on-going basis. Common wastewater treatment systems and/or common water systems not approved by the state shall not be allowed to service the lots in the plat.

D. Preliminary grading, construction site erosion control and post-construction stormwater management plans.

1. Areas proposed for filling and grading within shorelands and in close proximity to wetlands and floodplains shall be differentially shaded.

E. Ownership, management and maintenance plans for parks, parkways, playgrounds, drainage ways, stormwater ponds or other common areas whether proposed for dedication to the public or remaining privately owned.

F. Required or proposed deed restrictions, restrictive covenants or conservation easements for lots and outlots, if any to be imposed.

G. Any proposed conservation easement for common open space protection.

1. The Land & Water Conservation Department may consider non-profit private conservation organizations, and/or the town, to be a joint holder of or have third-party enforcement rights in all conservation easements.

2. Such conservation easements are intended to obligate Calumet County to enforce the stated development restriction on the common open space.

(21) Where the Land & Water Conservation Department and/or Committee finds that it requires additional information relative to a particular problem presented by a proposed development to review the preliminary plat, it shall have the authority to request such information from the subdivider.

Sec. 62-30. Final Plats.

(a) Procedure.

(1) Preliminary Plat Term Limits. Final plats shall be submitted to the Committee within thirty-six (36) months of the approval of the preliminary plat. If the final plat is not submitted within thirty-six (36) months of the approval of the preliminary plat, the Committee shall choose to accept the final plat application or refuse to accept the final plat based on major land use changes affecting the plat, significant ordinance revisions or legal implications.

(2) Application. If the preliminary plat has been approved or has been approved conditionally and is in compliance with sub. (a)(1), the subdivider may submit copies of the final plat and file a written application for its approval with the Committee.

(3) Land & Water Conservation Department Plat Distribution. Ten (10) clearly legible copies of the final plat shall be submitted with the application required in sub. (a)(2) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the final plat shall distribute copies of the plat as follows:

- A. One (1) copy to the applicable Town Clerk.
- B. One (1) copy to the clerk of an adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.
- C. One (1) copy to the appropriate utility company(s).
- D. One (1) copy to the Calumet County Land & Water Conservation Department.
- E. One (1) copy to the Calumet County Highway Commission.
- F. One (1) copy to the County Surveyor.
- G. One (1) copy to the Calumet County Sheriff's Department.
- H. One (1) copy to the Calumet County Emergency Management Department.

(4) Subdivider Plat Distribution. The subdivider shall submit the original plat to the Wisconsin Department of Administration-Plat Review for distribution to agencies authorized to object in accordance with s. 236.12 (6), Wis. Stats.

(5) Review of Final Plat.

- A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (a)(3) when the copies are sent that it has no more than forty-five (45) days from receipt of the plat to submit comments to the Land & Water Conservation Department.
- B. The Land & Water Conservation Department shall review the plat for conformance with the subdivision's approved preliminary plat, this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the plat. The County Planner shall provide the Committee with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.
- C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.
- D. The Land & Water Conservation Department shall inform, in writing, the applicant, applicable Town Clerk and municipal clerk not less than five (5) days in advance of the date, time and place of the Committee meeting at which the plat will be reviewed.

(6) Committee Decision.

A. The Committee shall, within sixty (60) days from the date a complete application and fee is received, approve, approve conditionally or reject the final plat based on a determination as to its conformance with the provisions of this chapter. Failure of the Committee to act within said sixty (60) day period shall constitute an approval unless the time period is extended by agreement with the subdivider.

B. Applicable state agency approvals may be required prior to plat approval.

C. The applicant and the applicable town and municipal clerks shall be notified, in writing, by the Land & Water Conservation Department of the Committee's decision.

(b) Final Plat Content. The content required by this section shall assist the Committee with making a decision in accordance with sub. (a)(6).

(1) The final plat shall conform to and meet the specifications set forth in sections. 236.20 and 236.21, Wis. Stats.

(2) The final plat shall conform to all conditions placed on the preliminary plat.

(3) Final plat layout features shall substantially conform to the approved preliminary plat.

(4) Identification of environmentally sensitive areas.

(5) A complete soils evaluation shall be done on each lot to determine suitability for an on-site wastewater treatment system for a dwelling on a single lot, or a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling as required in Sec. 62-17, *Land Divisions Not Served By Public Sewer*.

(6) Soil boring locations shall be identified on a separate, scaled map with cross-reference to test results as reported on a current State soil evaluation form.

(7) The subdivider shall submit final construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.

(8) The subdivider shall submit final erosion control and post-construction stormwater management plans.

(9) The subdivider shall submit final versions of all proposed restrictive covenants, conservation easements or deed restrictions with the final plat.

(10) Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Committee, Land & Water Conservation Department and/or any other approving or objecting agency.

(11) Where the Land & Water Conservation Department and/or Committee finds that it requires additional information relative to a particular problem presented by a proposed development to review the final plat, it shall have the authority to request such information from the subdivider.

(c) Recording. Approved plats shall be recorded in accordance with s. 236.25, Wis. Stats., before lots may be sold.

Sec. 62-31. Certified Survey Maps.

(a) Pre-Application Procedure. Whenever a minor subdivision within Calumet County is proposed, the subdivider shall consult early and informally with the Land & Water Conservation Department for advice regarding general requirements affecting the proposed development. A sketch plan of the proposed minor subdivision shall be submitted. The sketch plan shall identify proposed roads; lots and any proposed dedications; environmentally sensitive areas; abandoned landfills; and any proposed grading, filling, lagooning, or dredging.

(b) Procedure.

(1) Application. Any subdivider who divides land as a minor subdivision, dedicates a road, and/or dedicates other public areas in an unincorporated area of Calumet County shall prepare a certified survey map in accordance with s. 236.34, Wis. Stats. and all of the requirements in this chapter which may apply. All certified survey maps, along with a written application, shall be submitted to the Land & Water Conservation Department for approval. Prior to submitting an application for certified survey map approval with the Land & Water Conservation Department, the subdivider shall have received approval of the certified survey map from the town when said town has an adopted land division ordinance on file with the Land & Water Conservation Department and any city or village if the minor subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.

A. The application for a minor subdivision shall show or identify the original tract and the parent parcel(s), which the proposed subdivision was part of, five (5) years prior to the date of application.

B. The fact that a proposed division creates four (4) or fewer parcels does not automatically create eligibility to employ the minor subdivision procedure if prior or concurrent division of the parent parcel(s), that existed five (5) years prior to the date of application, precludes additional divisions through the minor subdivision procedure.

C. Complete certified survey map applications will not be accepted until one (1) day after the date of eligibility, which is five (5) years after the recording of an applicable minor subdivision. For example: A parent parcel has a minor subdivision recorded January 1, 2010 and is eligible for subsequent minor subdivision application on January 2, 2015.

(2) Land & Water Conservation Department Map Distribution. The original certified survey map and ten (10) clearly legible copies of the certified survey map shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the certified survey map shall distribute copies of the map as follows:

A. One (1) copy to the applicable Town Clerk.

B. One (1) copy to the clerk of an adjoining city or village if the minor subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.

C. One (1) copy to the County Surveyor.

D. One (1) copy to the Calumet County Real Property Lister.

- E. One (1) copy to the Calumet County GIS Administrator.
- F. One (1) copy to the Land & Water Conservation Department
- G. One (1) copy to the Calumet Highway Department.
- H. One (1) copy to the Calumet County Sheriff's Department.
- I. One (1) copy to the Calumet County Emergency Management Department.

(3) Review of Certified Survey Map.

A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (b)(2) when the copies are sent that it has no more than forty-five (45) days from receipt to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the certified survey map for conformance with this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the map.

C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.

(4) Land & Water Conservation Department Decision.

A. The Land & Water Conservation Department, unless a decision has been deferred by the Land & Water Conservation Department to the Committee, shall, within sixty (60) days after a complete application and fee is received unless the time limit is extended by agreement with the subdivider, approve, approve conditionally, or reject the certified survey map based on a determination as to its conformance with the provisions of this chapter. If the certified survey map is rejected, a letter stating the reason(s) for rejection shall accompany the plat. If action is not taken within sixty (60) days and an agreement of extension is not made, the map shall be deemed approved and a certificate of approval shall be issued on demand.

B. In the event of rejection or conditional approval by the Land & Water Conservation Department, the subdivider may appeal the decision of the Land & Water Conservation Department to the Committee. The subdivider shall be notified, in writing, of any conditions of approval or the reasons for rejection.

(c) Certified Survey Map Content. The content required by this section shall assist the Land & Water Conservation Department or the Committee with making a decision in accordance with sub. (b)(4).

(1) Certified survey maps shall comply in all respects with the requirements of s. 236.34, Wis. Stats.

(2) Required Information. The certified survey map shall be prepared by a registered land surveyor at a scale of not more than four hundred (400) feet to one inch, utilize the Calumet County Coordinate System, and shall show correctly on its face, in addition to the information required by s. 236.34 Wis. Stats., the following where applicable:

A. The exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a minimum of two corners established in the Calumet County Coordinate System, and the total acreage encompassed thereby.

B. The date, graphic scale and north point.

C. The name and address of the owner, subdivider, subdivider's agent, and the surveyor, including registration number.

D. The names, locations, and right-of-way widths of any existing or officially mapped roads, trails or other public or private ways easements, railroad or utility right-of-ways included within or adjacent to the proposed subdivision.

E. Existing road access restrictions and any existing access control limitations. These shall be explained within the application material and noted on the face of the plat.

F. All proposed road names and access to the newly created lot(s).

G. The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, rivers, environmentally sensitive areas, prime farmland, wooded areas, historic and archeological features, effigy mounds, native prairie remnant and any other significant limiting features or characteristics within the proposed subdivision.

H. All floodplain boundaries.

I. Necessary utility and drainage easements.

J. Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Land & Water Conservation Department and/or any other approving or objecting agency.

K. All necessary certificates as required in s. 236.21, Wis. Stats., and certificates for the Calumet County Land & Water Conservation Department, Town Clerk and, where applicable, the municipal clerk of a municipality having extraterritorial plat review jurisdiction.

L. Where the Land & Water Conservation Department finds that it requires additional information relative to a particular problem presented by a proposed development to review the map, it shall have the authority to request such information from the subdivider.

(3) Data to accompany the certified survey map.

A. The exterior boundaries and base development yield of the original tract.

B. Final construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.

C. A location on each lot that will accommodate an on-site wastewater treatment system and its replacement as indicated by soil borings as required in Sec. 62-17, *Land Divisions Not Served By Public Sewer*.

D. When a common wastewater treatment system is proposed, a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling shall be provided. When a common water system is proposed, a complete site and design evaluation approved by the state shall be provided. A sewer and/or water supply management plan shall be provided; which estimates service contract needs, insurance requirements, replacement and other associated costs and defines the means for funding and enforcing the same on an on-going basis. Common wastewater treatment systems and/or common water systems not approved by the state shall not be allowed to service the lots in the plat.

E. Where applicable, the subdivider shall submit final erosion control and post-construction stormwater management plans.

F. Required or proposed deed restrictions, restrictive covenants or conservation easements for lots and outlots.

(d) Recording. The subdivider shall record the certified survey map with the Calumet County Register of Deeds within thirty (30) days of its approval. Failure to do so will necessitate re-approval of the map. An additional fee shall be required.

Sec. 62-32. Combining Parcels.

A certified survey map shall be required for the combining of two (2) or more existing tax parcels or existing parcels of record into a single lot. Certified survey maps used to combine existing tax parcels or existing parcels of record must meet the following requirements:

(a) The map shall be prepared in accordance with s. 236.34, Wisconsin Statutes.

(b) The map shall be headed "Certified Survey Map" and subheaded "Combining of Parcels Described in [list recorded documents]."

(c) The surveyor's certificate shall include the statement that "this certified survey map is not a division of property but a combining of and depiction of the parcels recorded in [list recorded documents from Calumet County records] into a single parcel and description."

(d) The parcels being combined must meet the following standards:

(1) They shall be contiguous.

(2) They shall be under identical ownership.

(3) They shall be within the same municipality.

(e) The approved procedure for such certified survey maps shall be in accordance with Sec. 62-31, *Certified Survey Maps*. The Calumet County Real Property Lister shall have objecting authority in the certified survey map approval process.

(f) The certified survey map shall be filed for recording with the Calumet County Register of Deeds within thirty (30) days of the date of the certified survey map's approval and shall include the signed certificates of the surveyor, property owner, the Calumet County Land & Water Conservation Department, the Town Clerk, and, where applicable, the municipal clerk of a municipality having

extraterritorial plat review jurisdiction. The recording data, including the CSM number, volume and page number, shall be noted on the final approved map, and four (4) copies shall be forwarded to the Land & Water Conservation Department for distribution to the appropriate review agencies and municipalities. Local municipalities shall be notified by Calumet County of all parcel combinations recorded under this section for the purpose of transferring any unpaid taxes or special assessments to the new lot created by the combined parcels.

(g) Parcels, which have been combined under this section, shall not be subsequently reestablished or separately conveyed unless a new certified survey map or plat is submitted and approved in accordance with this chapter.

Sec. 62-33. Condominium Plats.

(a) **Applicability and Jurisdiction.** The provisions of this section shall be applicable to all condominium instruments to be recorded in Calumet County, excluding those involving lands within a city or village.

(b) **Procedure.**

(1) **Application.** Any declarant who proposes a condominium shall prepare condominium instruments and shall submit the necessary copies of the final condominium instruments along with the required fee and application to the Land & Water Conservation Department. The application must include:

A. The name of the condominium.

B. The parcel number(s) of property being subjected to the condominium.

C. The name, address and telephone number of the property owner(s).

D. The name, address, and telephone number of the person to be contacted regarding the condominium.

E. A statement as to whether this is an expandable condominium and, if so, a description of all lands subject to expansion and the total number of units planned.

F. A statement as to whether limited common elements such as garages, parking spaces, storage units, boat slips, and anything else other than the actual unit will be available for separate conveyance.

G. A list of proposed private road names, if any.

H. Any amendments and/or addendums must include a statement that clearly defines the proposed amendment.

(2) **Land & Water Conservation Department Condominium Instrument Distribution.** Two (2) clearly legible copies of the condominium declaration, plat, and plan, together with any attached exhibits or schedules shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) business days after receipt of the condominium instruments shall distribute a copy of the condominium instruments to the County Surveyor.

(3) Review of Condominium Instruments.

A. The Land & Water Conservation Department shall notify the County Surveyor when the copy is sent that it has five (5) business days from receipt to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the condominium instruments for conformance with s. 703.115, Wis. Stats., and this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other County Plans, which affect the condominium.

C. All comments received shall be forwarded by the Land & Water Conservation Department to the applicant at the completion of the five (5) day review period.

(4) Land & Water Conservation Department Decision.

A. The Land & Water Conservation Department shall, within ten (10) business days after a complete application and fee is received shall approve or reject the condominium instruments as provided by s. 703.115(1)(b), Wis. Stats. The applicant shall be notified in writing of any condition of approval as well as staff recommendations, or all specific reasons for rejection. Any conditional approval shall be valid for one (1) year from the date of written notification unless the condominium instruments have been recorded within the one year (1) time frame with the Calumet County Register of Deeds. Approval of the condominium will be indicated by signing and sealing a county certificate on the condominium instruments.

B. If the Land & Water Conservation Department rejects a condominium instrument, the declarant may resubmit the condominium instruments in conformance with this chapter. The resubmitted condominium instrument shall be reviewed following the procedures set forth in this section. An additional fee shall not be required unless the changes in the condominium instruments, in the opinion of the Land & Water Conservation Department, constitute a new full review. If the declarant's resubmission resolves the reason for rejection of the condominium instrument and does not create new reasons for rejection, the Land & Water Conservation Department shall approve the resubmitted condominium instrument.

(c) Condominium Instrument Content. The content required by this section shall assist the Land & Water Conservation Department with making a decision in accordance with sub. (b)(4).

(1) Condominium instruments shall comply in all respects with the requirements of Chapter 703, Wis. Stats.

(2) Required Information. The condominium instruments shall include the following, where applicable:

A. The expansion area, clearly defined on both the condominium plat and in the condominium declaration.

B. Any existing easements affecting the condominium, clearly labeled on the condominium plat.

C. The location of all limited common elements and the unit owner, to which they are assigned, clearly defined and labeled.

D. The location of all limited common elements that may be sold to parties other than the unit owner, to which they are assigned, clearly defined and labeled.

E. A list of proposed private road names and their locations.

(d) Recording. Condominium instruments shall be recorded with the Calumet County Register of Deeds if:

(1) The condominium instruments bear certificates of approval by the Land & Water Conservation Department pursuant to sub. (b)(4); or

(2) The condominium instruments were submitted to the Land & Water Conservation Department for approval and more than ten (10) business days have elapsed since submission and the condominium instruments have not been rejected under sub. (b)(4).

Sec. 62-34. Planned Developments.

The requirements and standards of this chapter may be waived by the Committee for planned developments providing such proposed developments shall be planned as a whole, shall be appropriate to the site's characteristics and location, shall be of sufficient size to permit the unified development of the area, shall not exceed the permitted base development yield and shall not conflict with other laws or requirements or with the purpose or intent of this chapter. In addition, continued provision, maintenance and use of open space, recreation areas, services and amenities shall be assured in a manner acceptable to the Committee. Nothing in this section shall be construed to supersede the applicable county or town Zoning Code and any state statutes.

Sec. 62-35. Cluster Subdivisions.

(a) Applicability. A cluster subdivision is a residential land division creating three (3) or more lots within a five (5) year period from the parent parcel. Clustering shall be prohibited in environmentally sensitive areas as defined in Sec. 62-16, *Environmentally Sensitive Areas*.

(b) Size and Open Space.

(1) No more than twenty-five (25) percent of the gross acreage of the subdivision shall be in a cluster development where the density is equal to or lower than one (1) residential dwelling unit per twenty (20) acres. The remaining acreage shall be owned and maintained as open space in accordance with sub. (d)(1).

(2) No more than fifty (50) percent of the gross acreage of the subdivision shall be in a cluster development where the density is equal to or higher than one (1) residential dwelling unit per (10) acres. The remaining acreage shall be owned and maintained as open space in accordance with sub. (d)(1).

(c) Siting Standards.

(1) The clustering parcels shall be contiguous to one other.

(2) Cluster subdivisions shall avoid encroaching on significant natural resources, including rare plant communities, or endangered species, as identified by the Wisconsin Department of Natural Resources.

(3) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local and regional recreational trails.

(4) Cluster subdivisions shall be exempt from Sec. 62-14(b), *Dedication of Lands for Public Recreation Within Residential Plats*.

(5) Lots in a cluster subdivision shall be sited to achieve the following goals to the best extent practicable:

A. Minimize impact to prime farmland and large tracts of land in agricultural use, and avoid interference with normal agricultural practices. This restriction is waived if the lot is in a hamlet or Density Management Boundary established on the Calumet County Density Map.

B. Prevent negative impacts to groundwater.

C. Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.

D. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.

E. Protect scenic views.

F. Prevent negative downstream impacts due to runoff by using adequate on-site stormwater management practices.

(d) Open Space Design.

(1) In minor subdivisions, the open space required in sub. (b) may be individually owned by the owner of the parent parcel. In major subdivisions, the minimum open space required in sub. (b) shall be owned and maintained under one of the alternatives listed in Section 62-40, *Ownership of Open Space and Common Facilities*, as approved by the Committee.

A. The open space shall be accessible to the residents of the development except if the open space is individually owned by the owner of the parent parcel.

B. The open space may also be available to the general public providing the proper approvals are received by the land owners and/or association.

C. The required open space shall be undivided and restricted in perpetuity from future development and maintained as specified in Sec. 62-41, *Maintenance Plan*. If the open space is located within a Density Management Boundary, as shown on the Density Map, the subdivider may include the following or similar language on the face of the plat and in the deeds of the lots subject to the open space requirements of this section:

“Should at anytime [Lot #, Name of Plat] be provided with public sewer and water, the easement prohibiting development on, and the dividing of the open space described as [Legal Description], can be removed at the discretion of the jurisdictional authority.”

(2) Open Space Conservation Ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enhance the natural features of each particular site.

A. First priority shall be given to intact natural communities, habitat and areas for rare and endangered species, environmental corridors, wetlands, and natural and restored prairies, significant historic and archaeological properties, prime farmland and slopes greater than twenty (20) percent.

B. Second priority shall be given to land identified for preservation on the adopted Calumet County GreenPrint Map.

C. Third priority shall be given to areas providing little to no habitat but providing view shed, recreation, or open space.

D. Fourth priority shall be given to areas providing some plant and wildlife habitat and open space.

(3) The following uses or structures may be located within the open space area and shall be counted toward the overall open space percentage required in sub. (b).

A. Parking areas for public access to the open space.

B. Privately held buildings or structures provided they are accessory to the use of the open space. Privately held agricultural buildings and structures associated with the continued agricultural use of the parent parcel shall be allowed on the open space provided they are setback a minimum of thirty (30) feet from any cluster subdivision lot line.

C. Shared septic systems and shared potable water systems.

(4) Public road right-of-ways shall not count towards the minimum open space required in sub. (b).

(5) The portion of open space designated to provide plant and/or animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.

(6) The areas of the open space designed for recreational uses such as, but not limited to, trails, play fields, or community gardens should be designed in a manner, acceptable to the Committee that avoids damaging the historic or archaeological integrity of the site.

(7) A pathway system may be included to connect existing or potential open space lands on adjoining parcels and shall connect these areas to neighborhood streets and to planned or developed trails.

Sec. 62-36 – Sec. 62-39. Reserved.

ARTICLE V.

OWNERSHIP AND MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES

Sec. 62-40. Ownership of Open Space and Common Facilities.

(a) Applicability. The provisions of this section shall apply only to Sec. 62-35, *Cluster Subdivisions*, of this chapter.

(b) Alternatives. The designated open space, as defined in Sec. 62-35(b) of this chapter, and common facilities shall be owned and managed by one (1) or more of the following combinations, except for minor subdivisions as stated in Sec. 62-35(d)(1):

(1) Homeowners Association. If the open space is proposed to be owned by a homeowners association, the instrument shall indicate that membership in the association is mandatory for all purchasers of homes in the development and their successors. It shall also include the homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenant, conditions and restriction of the homeowners association. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map or condominium plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions shall contain the following information:

A. The legal description of the common land.

B. A description of the common facilities.

C. The restrictions placed upon the use and enjoyment of the lands or facilities.

D. Persons or entities entitled to enforce the restriction.

E. 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.

F. A mechanism for resolving dispute among the owners or association members.

G. The conditions and timing of the transfer of ownership and control of land or facilities to the association.

H. Any other covenants, restrictions and conditions the developer deems appropriate.

(2) Condominium Association. If the common open space and facilities are to be held under the Condominium Ownership Act, Ch. 703, Wis. Stats., the condominium instruments shall identify the restriction placed upon the use and enjoyment of the common open space. All open space shall be held as a limited common element. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map, or condominium plat.

(3) Non-Profit Conservation Organization. If the open space is to be held by a nonprofit conservation organization, the organization shall be acceptable to the Committee or the Land & Water Conservation Department. The conveyance to the non-profit conservation organization shall contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map, or condominium plat.

(4) Public Dedication of Open Space. The applicable town within which the subdivision is located may accept the dedication of fee title or dedication of a conservation easement to the open space or turn that option over the county. Such instrument shall be submitted for approval to the accepting

jurisdictional authority as part of the information required for the plat, certified survey map or condominium plat. The designated jurisdictional authority may accept the open space provided:

- A. The open space is accessible to the public.
- B. The designated jurisdictional authority agrees to and has access to maintain the open space.

Sec. 62-41. Maintenance Plan.

Every cluster subdivision, where applicable, shall include a plan that provides evidence of a means to properly manage the open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any stormwater facilities. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map or condominium plat.

(a) The maintenance plan shall be designed to accomplish all the following:

(1) Designate the ownership of the open space and common facilities in accordance with Sec. 62-40, *Ownership of Open Space and Common Facilities*.

(2) Establish necessary regular and periodic operation and maintenance responsibilities.

(3) If agricultural uses abut the land division at the time of recording, the subdivider shall create a buffer strip in the land division immediately adjoining said agricultural uses which strip shall be a minimum of thirty (30) feet in width and which shall be devoted to open space land uses only.

(4) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.

(5) Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The stewardship plan shall include a narrative describing:

A. Existing conditions including all natural, cultural, historic and scenic elements in the landscape.

B. The proposed end state for each common element and the measures proposed to achieve the end state.

C. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion, and measures for restoring historic features and habitats.

D. The operations needed to maintain the stability of the conservation or agricultural resources, including mowing schedules, weed control, planting schedules, clearing and clean up. At the Committee's discretion, the applicant may be required to escrow sufficient funds for the operation and maintenance costs of common facilities for one year.

E. In the event that the organization established to own and maintain the open space and common facilities, or any other successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition in accordance with the maintenance plan and all applicable laws, rules and regulations, the county may serve written notice upon such organization and the residents and owners of the open space and common facilities, setting forth

the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply with the time specified, the organization, or any successor organization, shall be considered in violation of this ordinance, in which case the bond if any may be forfeited, and any permits may be revoked or suspended. Representatives of the county may enter the premises and take corrective action.

F. The costs of the corrective action by the county may be assessed by the applicable town, in accordance with tax assessments, against the properties that have the right to enjoyment of the common facilities and may become a lien on said properties as stated in s. 66.0627, Wis. Stats. The applicable town, at the time of county representatives entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien at the office of the Calumet County Register of Deeds upon the properties affected by such lien.

G. Management plans can be amended by the owner identified in Sec. 62-40, *Ownership of Open Space and Common Facilities*, with the approval of the Committee.

Sec. 62-42 – Sec. 62-43. Reserved.

ARTICLE VI.

DESIGN REQUIREMENTS

Sec. 62-44. Design Requirements.

Except for those plats and certified survey maps created in a town with their own ordinance addressing the design requirements of this article, all plats and certified survey maps, unless granted a waiver under Sec. 62-34, *Planned Developments*, shall comply with the design requirements of this article. However, the lot dimension requirements of Sec. 62-46(b)(4) are not exempt from county regulation and shall apply even where a town has adopted an ordinance with lot dimension requirements.

Sec. 62-45. Road Design Standards.

The subdivider shall dedicate land for and improve roads as provided herein. The road authority may defer to the road design standards described in the latest versions of the Wisconsin Department of Transportation Facilities Development Manual and the Wisconsin Standard Specifications Manual. Roads shall be located with due regard for topographical conditions, natural features, utilities, land uses, and public convenience and safety; and shall conform to the following standards:

- (a) Existing roads shall be continued at the same or greater width, but in no case, less than the required width stated in sub. (j).
- (b) Road names shall require the approval of the Land & Water Conservation Department. Roads that are obviously in alignment with roads already existing and named shall be given the name of the existing road. Names of new roads shall not duplicate or closely approximate those of existing roads.
- (c) Road jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.
- (d) The use of cul-de-sac roads shall be prohibited within any Density Management Boundary, as shown on the Density Map, unless limited to portions of development, which, due to unusual

topographical, environmental, or other particular conditions, may better be served by cul-de-sacs than by continuous roads.

(e) Cul-de-sac roads designed as permanent installations shall not exceed one thousand (1,000) feet in length. All permanent cul-de-sac roads shall terminate with a full (360 degrees) circular turnaround having a minimum right-of-way diameter of one hundred twenty (120) feet and a minimum pavement diameter of eighty (80) feet. When topographical, environmental, or other particular conditions warrant, the length may be extended and/or the radii reduced at the discretion of the Committee. However, whenever a deviation is authorized by the Committee, the subdivider shall place a restriction on the face of the plat or certified survey map stating,

“The subdivider and future assignees who acquire ownership of this (these) land parcel(s) hold Calumet County and the town harmless for problems of access to and from the public road and the building site(s).”

(f) Alleys may be required at the rear of all lots used for multi-family, commercial, or industrial developments, but shall not be provided in one-family and two-family residential developments unless the subdivider provides evidence satisfactory to the Committee of the need for alleys.

(g) Reserve strips controlling access to roads, alleys, and public grounds shall not be permitted.

(h) Easements having a minimum width of ten (10) feet shall be made available for each lot as required for utility lines, underground mains, cables and other such infrastructure.

(i) All road right-of-ways shall be of the width specified by the adopted Calumet County comprehensive plan, any other county plan, or official map, if any, of the county, town, or city or village having extra-territorial jurisdiction, or, if not specified therein, they shall not be less than the width specified in sub.

(j). The right-of-way widths of local roads may be reduced pursuant to s. 236.16(2), Wis. Stats.

(j)

Road Type	Minimum ROW Width	Minimum Radius of Curvature	Maximum Grade	Sight Distance
Arterial Road	120 feet	500 feet	6%	475 feet
Collector Road	80 feet	200 feet	7%	350 feet
Local Road	66 feet	100 feet	11%	100 feet
Alley	30 feet	100 feet	11%	100 feet

(k) No road grade shall be less than ½ of one percent.

(l) The subdivider shall provide finished grading on publicly dedicated roads and shall grade the roadways to sub-grade to the width prescribed by the Land & Water Conservation Department, but in no case shall the roadway width be less than twenty (20) feet nor more than forty-four (44) feet. Such grading shall be provided pursuant to specifications approved by the applicable town. Development of roads beyond the local road specifications shall be the responsibility of the State of Wisconsin, Calumet County, and/or the applicable town having jurisdictional authority of the road.

(m) Street intersections shall be designed at right angles wherever possible. No street intersections shall be an angle of less than sixty (60) degrees, unless required by unusual circumstances and approved by the Committee.

(n) Between reverse curves, there shall be a tangent having a length of not less than one hundred (100) feet.

(o) Under no circumstances shall any new roads (right-of-ways) be allowed which are not located entirely within the external boundaries of the proposed subdivision.

(p) Dead-end roads shall only be permitted if authorized by the Committee or when the continuation of said road appears on the official map, if any, of the county, town, or city or village having extra-territorial jurisdiction authority.

(q) Unless further restricted or allowed by the jurisdictional authority, access to a subdivision off county and state highways shall require the installation of a deceleration lane and access from a subdivision onto county and state highways shall require the installation of an acceleration lane.

Sec. 62-46. Block and Lot Design.

The design and layout of blocks and lots shall conform to the following standards:

(a) Blocks shall be not greater than one thousand five hundred (1500) feet in length nor less than six hundred (600) feet in length, except where necessary in case of:

- (1) Cul-de-sacs and permanent dead-end roads.
- (2) The connection of a new road with an existing road or other unusual circumstances, when approved by the Committee.

(b) Lot Design.

- (1) The lot size, width, depth, shape and orientation shall be sufficient to provide reasonable developable area that is not restricted by easements, building setbacks, zoning requirements, environmentally sensitive areas, or other constraints.
- (2) The minimum lot area required under this chapter or applicable zoning ordinances shall not include land that is dedicated or reserved for public right-of-ways.
- (3) Lots shall follow, rather than cross, municipal boundary lines.
- (4) Lot Dimensions.

A. In those towns having adopted the Calumet County Zoning Ordinance, the lot dimensions specified in the Calumet County Zoning Ordinance shall be applicable. In all towns having not adopted the Calumet County Zoning Ordinance, where any such lot area/width requirements are less restrictive than below, the following lot area and width standards shall be applicable for unsewered lots:

Net Lot Area (minimum)	1.0 acre
Lot Width (minimum)	150 feet

Provided State approved public sanitary sewerage facilities have been installed for the proposed lot(s), the minimum net lot area shall be reduced to seven thousand five hundred (7,500) square

feet, and the minimum lot width be reduced to sixty (60) feet for lots not located within shoreland areas. For lots located within shoreland areas, the minimum net lot area shall be reduced to twenty thousand (20,000) square feet, and the minimum lot width reduced to one hundred (100) feet.

B. In all towns, zoned or unzoned, the width of lots served by public sewer located on the outer radius of a curved road or a cul-de sac turnaround shall be measured at the building setback line. However, in no case shall the lot width measured at the right-of-way line be less than thirty-five (35) feet. The minimum lot frontage of all other lot designs shall equal the required lot width.

C. In all towns, zoned or unzoned, the width of lots not served by public sewerage disposal facilities located on the outer radius of a curved street or a cul-de-sac turnaround shall be measured at the required building setback line. However, the lot width measured at the right-of-way line shall not be less than seventy (70) feet. The minimum frontage of all other lot designs shall, at a minimum, equal the required lot width. Except under circumstances where a new lot is being created on a local road and there are existing building(s) located at least three hundred (300) feet from the local road or a proposed building site that is at least six hundred and sixty (660) feet from the local road, the minimum frontage may be reduced to no less than thirty-three (33) feet. This access strip shall not be included as part of the net lot area and no more than two such lots shall be allowed per original tract. This exception shall not apply to new lots on county and/or state roads.

D. Residential lots located within zero side-yard setback, or “zero lot line,” zoning areas will be allowed. These zero lot line lots shall conform to all the requirements of the applicable zoning district in which they are located. Zero lot line lot dimensions shall be allowed only in those municipalities that have adopted such a zero lot line ordinance and in those lots, which have access to municipal sewer.

E. Except in those towns exercising town zoning jurisdiction where there are equal or more restrictive highway setbacks in effect, all highway setbacks specified in the Calumet County Zoning Ordinance shall be herein adopted, by reference, and henceforth considered as requirements of these regulations. The most restrictive applicable setbacks shall be indicated (drawn to scale) on the face of the plat or certified survey map.

(5) Every lot shall abut on a public road. This requirement may be waived by the Committee if the applicable town, by resolution, approves said private road and includes in the resolution that the county shall not be liable or responsible for said private road. In addition to abutting on a public road, every lot shall have access to the public road network either through direct access to an abutting road, through a contiguous parcel under the same ownership with direct access to an abutting road, or through a recorded alternative access, such as an easement or shared driveway easement.

(6) To provide adequate access and circulation to playgrounds, schools, shopping centers, or other community facilities, the Land & Water Conservation Department and/or the Committee may require upon written request by the applicable town that walkways or sidewalks be provided in locations specified by the Land & Water Conservation Department and/or the Committee, either along streets or through the center of blocks.

(7) Double frontage and reverse frontage lots shall be avoided, except where approved by the Committee, to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of at least ten (10) feet, which

there shall be no right of access, shall be reserved for a vegetated buffer along the line of lots abutting such a traffic artery or other incompatible use. Said easement shall not be used as a drainage easement.

(8) All lot lines shall be perpendicular or radial to road lines, unless approved by the Committee because of topography or other natural features.

Sec. 62-47. Easements.

(a) The Land & Water Conservation Department and/or Committee may require easements for things such as, but not limited to, electric power and communications facilities, storm and sanitary sewers, tree planting, drainage, gas, water, cable television lines, or other utility lines. Such easements shall be placed so as not to interfere with the unreasonable use and enjoyment of the property for residential or other purposes.

(b) Utility easements and drainage easements shall be separately located, unless specifically approved by the Land & Water Conservation Department and/or the Committee.

(c) Whenever an easement is created for specific public improvements or otherwise conveys an interest to a specific individual, entity, or public body, the recipient or beneficiary of such easement shall be clearly noted on the plat or certified survey map. For drainage easements, in the absence of a stated beneficiary, the easement shall be a restriction on the affected property and not a conveyance of interest.

(d) Information regarding the rights and responsibilities of the easement holder, terminating or relocating the easement and other information regarding the easement may be included on the plat or certified survey map.

(e) Designated drainage easements shall be free and clear of any obstruction including but not limited to, fences, plantings, playground equipment, or sand boxes. It shall be the responsibility of the subdivider to convey on the deed the drainage easement restrictions.

Sec. 62-48. Public Access to Navigable Waters.

Access to navigable waters shall be in compliance with s. 236.16(3), Wis. Stats.

Sec. 62-49. Improvements.

(a) All improvements that are associated with a land division (i.e. roads, grading, construction site erosion control, post-construction stormwater management, public sewer and water facilities, road signage) shall be constructed in accordance with construction specifications approved by the applicable town, the Land & Water Conservation Department or the Committee. The required improvements are to be furnished and installed at the sole expense of the subdivider.

(b) The improvements specified in the approved construction specifications shall be installed and approval of a final plat or certified survey map shall be given only after the work has been completed or there shall have been filed with the appropriate town, the Land & Water Conservation Department or the Committee, one of the following:

(1) A duly completed and executed continuing surety bond in an amount sufficient to complete the work with surety satisfaction to the appropriate town, the Land & Water Conservation Department or the Committee.

(2) A certified check, in an amount sufficient to complete the work, drawn on an approved bank and available to the appropriate town, the Land & Water Conservation Department or the Committee. As the work progresses, the governmental jurisdiction, the Land & Water Conservation Department or the Committee may permit the exchange of said check for another check of sufficient amount to complete the remaining improvement agreed upon. If the improvements are not completed within the specified time, the town, the Land & Water Conservation Department or the Committee may use the bond or the certified check to complete the remaining work.

(3) Other collateral satisfactory to the appropriate town, the Land & Water Conservation Department or the Committee in an amount sufficient to complete the work.

(c) The subdivider may provide for the installation of facilities for distribution of electric, cable, telephone and/or gas utility service located within a subdivision underground. Transformers, junction boxes, meter points, or similar equipment may be installed upon the ground surface at finished grade level.

(d) The Land & Water Conservation Department and/or Committee may require that natural features, including trees, be preserved or protected.

Sec. 62-50 – Sec. 62-51. Reserved.

ARTICLE VII.

VARIANCES AND APPEALS

Sec. 62-52. Variances and Appeals.

(a) Variances. Where the Planning, Zoning, Land and Water Conservation Committee finds that “extraordinary hardship” or “practical difficulties” may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternate proposal, it may approve variances to these land division regulations provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. The Committee shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other properties.

(2) The conditions upon which the request is based are unique to the property for which the variance is sought and are not applicable generally to other property.

(3) Because of the particular physical surrounding, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

(4) The variance will not in any manner vary the provision of the other county ordinances and is not contrary to the adopted Calumet County comprehensive plan or other county plans.

(b) Conditions. In approving variances, the Committee may require such conditions as will, in its judgment, secure substantially the objectives of these regulations.

(c) Procedure. After consulting with the Land & Water Conservation Department and prior to an application for a land division is submitted, a petition for any such variance shall be submitted in writing by the subdivider to the Land & Water Conservation Department. All petitions shall be on forms provided by the Land & Water Conservation Department and include a fee as established in Sec. 62-53, *Fee Schedule*. The Committee may grant variances from the provisions of this chapter after holding a public hearing, with ten (10) days written notice prior to the hearing to the Town Board Chairperson of each affected town, to the applicant and/or subdivider, and all owners of lands located within three hundred (300) feet of any part of the parcel or parcels included in the application, and upon publishing of a Class 2 Notice, in accordance with Ch. 985, Wis. Stats., in the official newspaper of Calumet County.

(d) In no case shall a decision of the Committee nullify or alter the requirement for filing and recording a plat, certified survey map, or condominium plat.

(e) For all approved variances, a notation shall be placed on the plat, certified survey map, or condominium plat stating the nature of the variance granted and the date of approval by the Committee.

(f) Appeals. The Calumet County Circuit Court shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Planning, Zoning, Land and Water Conservation Committee. Any appeals arising from a decision of the Land & Water Conservation Department shall be made in accordance with Wis. Stat. §59.694(6).

Sec. 62-53. Fee Schedule.

The fees referred to in this chapter shall be established by the Planning, Zoning, Land and Water Conservation Committee. A schedule of the fees established shall be available for review in the Land & Water Conservation Department.

Sec. 62-54. Enforcement.

The Land & Water Conservation Department shall be responsible for the enforcement of this chapter. No sanitary or land use permit shall be issued for any lot until the final plat, certified survey map, or other required recording instrument for the land division has been duly recorded. No transfer of property shall be finalized and the Calumet County Register of Deeds shall not record the transfer of any lot, which by this chapter requires a plat, certified survey map, or other required recording instrument until the final plat, certified survey map, or other recording instrument for the subdivision has been duly recorded. Any person who violates this chapter shall be subject to a fine of not more than two hundred dollars (\$200.00) plus the costs of prosecution for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

Sec. 62-55. Amendments.

(a) This chapter may be amended from time to time by the Calumet County Board of Supervisors.

(b) Before submitting a proposed amendment to this chapter to the County Board of Supervisors, the Committee shall hold a public hearing thereon. Notice of such public hearing shall be given by publication of a Class 2 notice, in accordance with Ch. 985, Wis. Stats., in the official newspaper of Calumet County.

(c) Certain clerical changes made necessary by changes in the Wisconsin Statutes, which do not alter the purpose or intent of this chapter, shall be made by the Committee without the need for a public hearing.

(d) Typographical or other corrective amendments, which do not alter the purpose or intent of this chapter, shall be made by the Committee without the need for a public hearing.

Sec. 62-56. Reserved.

(History: Ordinance 2009-14, February 16, 2010; 2010-02, May 18, 2010; Ordinance 2010-17, December 21, 2010; Ordinance 2011-08, November 1, 2011; Ordinance 2013-5, §§4, 17, 18, 46, November 4, 2013)

RESERVED

Chapter 66

TAXATION*

* **Cross References:** Any ordinance providing for an annual tax levy on real estate saved from repeal, § 1-4(a)(8); administration, ch. 2; finance, § 2-101 et seq.

Sec. 66-1. Enforcement of the collection of tax liens.

Sec. 66-2. Penalty on real taxes, special assessments and personal property taxes.

Sec. 66-3. Penalty on delinquent real estate taxes and special assessments.

Sec. 66-4. Sale of Tax Delinquent Real Estate.

Sec. 66-5. Sales and Use Tax Ordinance.

Sec. 66-1. Enforcement of the collection of tax liens.

From and after January 1, 1973, the county elects to adopt the provisions of Wis. Stats. § 75.521 for the purpose of enforcing tax liens in the county in the cases where the procedure provided by such section is applicable.

(Ord. No. 39, 11-28-1972)

Sec. 66-2. Penalty on real taxes, special assessments and personal property taxes.

Pursuant to Wis. Stats. § 74.47, the county imposes a penalty of 0.5 percent per month or fraction of a month, in addition to the interest provided by such statute, on all real estate taxes, special assessments and personal property taxes that are overdue or delinquent.

(Ord. No. 1989-6, § 1, 12-19-1989)

Sec. 66-3. Penalty on delinquent real estate taxes and special assessments.

(a) The county imposes a penalty of 0.5 percent per month, or fraction of a month, in addition to the interest provided by statute on all real estate taxes and special assessments that are overdue or delinquent on or after the effective date of the ordinance from which this section is derived.

(b) The county treasurer shall exclude the additional revenue generated by this penalty from the distributions required by Wis. Stats. §§ 74.03(7) and 74.031(12)(c) and (d).

(Ord. No. 1983-6, §§ 1, 2, 8-23-1983)

Sec. 66-4. Sale of Tax Delinquent Real Estate.

(a) Policy. The general policy of this County Board in acquiring, managing and disposing of tax-deeded lands is to realize as much tax revenue as existing circumstances may permit, without speculation as to possible future sales value of such tax-deeded land.

(b) The County Treasurer of Calumet County is hereby empowered to manage all tax-deeded lands of this County and conduct negotiations for the sale of such lands. The sale of tax-deeded lands may be sold by either open or closed bid at the discretion of the Calumet County Treasurer.

(c) The power of this County Board to appraise and sell tax-deeded lands is hereby delegated to a committee consisting of the County Treasurer, the County Clerk and the Chairman of the Calumet County Board of Supervisors. No sale shall be made at a price less than the appraised value, unless the County Treasurer has met the proper publication requirement

under Wisconsin Statute 75.69 and the Administrative Services Committee has reviewed and approved such a sale. No property may be sold for an amount less than the amount of the highest bid, unless the Administrative Services Committee prepares a written statement, available for public inspection, explaining the reasons for accepting a bid less than the highest bid.

(d) The committee shall sell no lands unless the sale and value of such real estate as appraised by the above named committee shall have first been advertised in a newspaper of general circulation within Calumet County, at least once each week for three successive weeks prior to the date of such sale.

(e) Repurchase of Tax Deeded Lands.

1. At the option of the County, with Administrative Services Committee approval, former owners or surviving spouses or minor children of former owners may be granted the right to repurchase lands to which Calumet County has taken title through delinquent tax enforcement collection by payment of:

a. All delinquent taxes, together with interest thereon, and the penalty imposed under Section 66-3(a) to the date of payment.

b. A pro-rata share of the costs of the proceeding.

2. Any sale made under the provisions of this section shall be exempt from all of the requirements of Section 75.69, Wisconsin Statutes and Calumet County Ordinance section 66-4(d).

Sec. 66-5. County Sales and Use Tax Ordinance.

(a) Title. This Ordinance may be cited as the Calumet County Sales and Use Tax Ordinance.

(b) Authority. This Ordinance is enacted under the authority of Subchapter V of Chapter 77 of the Wisconsin Statutes and acts amendatory thereto.

(c) Definition. As used in this Chapter, "sales and use tax" includes the excise tax referred to in Wis. Stat. §77.71.

(d) Purpose of Ordinance. The purpose and goal of enacting this Ordinance is to utilize revenues from the County sales and use tax to reduce the property tax levy.

(e) County Sales and Use Tax. Pursuant to and in strict conformity with the provisions of Wis. Stat. ch. 77, Subchapter V, Calumet County does hereby elect to impose a County sales and use tax in the manner and to the extent permitted by Wis. Stat. ch. 77, Subchapter V.

(f) Sales and Use Tax Rate. The sales and use tax imposed by this Chapter shall be at the rate of one half of one percent (0.5%).

(g) Earmarked Revenues. In order to assure the statutory goal of using sales and use tax revenues to reduce property taxes, as long as Calumet County receives revenues from this sales and use tax, all revenues derived therefrom shall be held in a segregated account. From that account, the revenues shall be designated for use as revenue to finance the County's Capital Projects with the intent to reduce borrowing of those projects and secondly to reduce the existing debt.

(h) Reports from Finance Director.

- (1) The Finance Director shall provide to the Administrative Services Committee a report of all revenue received through the imposition of the sales and use tax since the previous reporting period. This report shall be given on a monthly basis or within thirty (30) days of such time as the Finance Director receives the information from the WI Department of Revenue.
 - (2) The Finance Director shall provide a report to the Administrative Services Committee no later than July 31 of each year analyzing the previous years' revenues derived hereunder.
 - (3) After providing the report as described above and after consulting with the Administrative Services Committee and the County Administrator, the Finance Director or County Administrator shall provide a similar report to the County Board at each August County Board meeting.
- (i) Effective Date. *This Ordinance shall become effective as of the first day of April 2018 in the manner provided for by law.*

(Ordinance 2013-9, 12-17-13; Ordinance 2015-02, 11-2-15; Ordinance 2017-06, 9-19-17.)

RESERVED

Chapter 70

TRAFFIC AND VEHICLES*

* **Cross References:** Law enforcement, ch. 38; offenses and miscellaneous provisions, ch. 42; motor vehicles and snowmobiles in parks, § 46-3; streets, sidewalks and other public places, ch. 58.

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ARTICLE I.

IN GENERAL

Sec. 70-1. Signals ratified.

All traffic control signs, signals, devices and markings in place on the date of adoption of this Code are expressly ratified and confirmed by the board of supervisors.

Sec. 70-2. State traffic forfeiture laws adopted.

Except as otherwise specifically provided in this section, all provisions of Wis. Stats. chs. 340--348, and all future amendments, revisions and additions thereto describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are adopted and by reference made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this section.

(Ord. No. 1990-2, § 2, 5-22-1990)

Sec. 70-3. Penalty for violation of chapter.

The penalty for violation of any provision of this chapter shall be a forfeiture, together with the cost of prosecution imposed as provided together with the cost of prosecution as set forth in the state uniform bond/bail schedule, as amended from time to time.

(Ord. No. 40, § 6, 12-19-1972)

Sec. 70-4 Reserved.

Sec. 70-5. Escort Fees/Permits for Overweight and Oversized Vehicles.

(a) Permit for Operation of Oversized Vehicles Upon County Trunk Highways.

(1) Compliance with Ordinance: Any person, firm or corporation seeking to operate an oversized vehicle upon a Calumet County Trunk Highway shall comply with the requirements of this Ordinance.

(2) Oversized vehicle means any vehicle that is overwide, overhigh, overlong, or overweight, in contravention of §348.05, §348.06, §348.07, or §347.15, Wisconsin Statutes, and as amended.

(3) Permit Required to Operate Oversized Vehicle:

a. No person, firm or corporation shall operate an oversized vehicle upon County Trunk Highways without first obtaining a permit from the Calumet County Highway Commissioner or his or her designee.

b. Applications to permit oversized vehicles upon Calumet County Trunk Highways shall be applied for at the Calumet County Highway Department, 241 E. Chestnut St., Chilton, WI 53014, upon forms to be provided by the Calumet County Highway Commissioner.

c. The charge of \$100.00 shall be assessed to those making application for the issuance of a permit for the operation of an overweight vehicle upon Calumet County Highways. The charge of \$25.00 shall be assessed to those making application for the issuance of a permit for the operation of an overwide, overhigh, or overlong vehicle upon Calumet County Highways.

d. Permits shall be issued only in the name of the owner of the vehicle to be operated.

(4) Denial of Permit Application: The Calumet County Highway Commissioner or his or her designee may refuse to grant a permit upon application for the operation of an oversized vehicle upon Calumet County Highways under the following conditions:

a. When operation of such vehicle is reasonably likely to interfere with the safety of those persons utilizing Calumet County Trunk Highways.

b. When the weight of a vehicle is such so as to be likely to cause damage to a Calumet County Trunk Highway as a result of operation thereupon.

(5) Restrictions. The Calumet County Highway Commissioner or his or her designee may issue a permit for the operation of an oversized vehicle upon Calumet County Trunk Highways with such restrictions as it deems appropriate, so as to protect the safety and welfare of those persons utilizing Calumet County Trunk Highways.

(6) Appeal. Any order or decision issued pursuant to this section may be appealed to the Calumet County Highway Committee.

(b) Escort Fees. Applicants for trip permits for the movement of oversized or overweight vehicles or loads within the county shall pay to the county treasurer the sum of \$40.00 per hour per squad for patrol

officer services when it is deemed necessary to have a patrol officer accompany the vehicle through a municipality or through the county, subject to a minimum fee of \$40.00.

(Ord. No. 1981-6, § 1, 9-29-1981; Ord. No. 2005-13, October 31, 2005.)

Sec. 70-6. Abandoned vehicles.

(a) *Vehicle abandonment prohibited.* No person shall leave unattended any motor vehicle, trailer, semi trailer or mobile home on any county highway or public or private property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any county highway or on any public or private property within the county without the permission of the owner for more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance.

(b) *Removal and impoundment.* Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (c) of this section, except that if the sheriff or his duly authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the county prior to expiration of the impoundment period upon determination by the sheriff or his duly authorized representative that the vehicle is not wanted for evidence or other reason.

(c) *Disposal.* If the sheriff or his duly authorized representative determines that the value of the abandoned vehicle exceeds \$100.00, he shall notify the owner and lienholders of record by certified mail that the vehicle has been deemed abandoned and impounded by the county and may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges, and if not so reclaimed shall be sold. If an abandoned vehicle determined to exceed \$100.00 in value is not reclaimed within the period and under the conditions as provided in this section, it may be sold at private sale. After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid into the county treasury. Any abandoned vehicle which is determined by the sheriff or his duly authorized representative to have a value of less than \$100.00 may be disposed of by direct sale to a licensed salvage dealer upon a determination that the vehicle is not reported stolen.

(d) *Owner responsible for impoundment and sale costs.* The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered for the sale of the vehicle may be recovered in a civil action by the county against the owner.

(e) *Notice of sale or disposition.* Within five days after the sale or disposal of a vehicle as provided in subsection (c) of this section, the sheriff or his duly authorized representative shall advise the state department of transportation, division of motor vehicles, of such sale or disposition on a form supplied by the division. A copy of such form shall also be given to the purchaser of the vehicle. A copy shall also be retained on file in the county.

(f) *Forfeiture.* Any person who shall abandon a vehicle in violation of this section shall, upon conviction, forfeit not less than \$500.00, together with the costs of prosecution.

(Ord. No. 40, § 5, 12-19-1972)

Sec. 70-7. Inline skates on county trunk highways.

(a) *Authority to restrict.* Wis. Stats. § 349.236 authorizes the county board to create an ordinance that restricts the use of inline skates on any roadway under its jurisdiction. This section establishes such

restrictions.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Inline skates means skates with wheels arranged in a tandem line rather than in pairs.

(c) *State and local laws to apply.* Every person using inline skates upon a public roadway shall be subject to the provisions of all ordinances and laws applicable to the operator of any vehicle except those provisions with reference to equipment of vehicles and those provisions which by their nature would not be applicable.

(d) *Right-of-way.* Every person using inline skates upon a sidewalk or walkway shall yield the right-of-way to any pedestrian and exercise due care when passing any other persons proceeding in the same direction.

(e) *Use on roadway.* Every person using inline skates on a public roadway shall keep as close to the righthand curb or edge of the roadway as possible.

(f) *Exceptions to use.* It shall be unlawful to use inline skates on any roadway designated as a county highway within the county, except when crossing a county highway at a crosswalk.

(g) *Use while clinging to vehicle.* It shall be unlawful for any person using inline skates to cling to or attach to any bicycle or other moving vehicle upon a public roadway.

(h) *Obeying traffic signals.* Every person using inline skates on a public roadway shall stop for all arterial and automatic traffic signals.

(i) *Single file proceeding.* Every person when using inline skates upon a public roadway shall proceed in single file only and proceed with traffic, not against it.

(j) *Following traffic laws on right-of-way.* Operators of vehicles shall yield the right-of-way to a user of inline skates in the same manner as for bicyclists and pedestrians under Wis. Stats. §§ 346.23, 346.24, 346.37, and 346.38. Every person when using inline skates shall, upon entering a public roadway, yield right-of-way to motor vehicles, except that a person using inline skates shall be subject to the same regulations as bicyclists and pedestrians under Wis. Stats. §§ 346.23, 346.24, 346.37, and 346.38.

(k) *Penalty for violation of section.* The penalty for violation of this section shall be an amount not to exceed \$500.00.
(Ord. No. 1994-18, §§ 1--5, 11-28-1994)

Sec. 70-8. Motor vehicles on icebound inland lakes.

(a) *Purpose.* The purpose of this section is to regulate the safe operation of motor vehicles on icebound inland lakes in the county over which the county has jurisdiction. This section is enacted pursuant to Wis. Stats. § 30.81(2). This section shall not regulate icebound inland lakes which are regulated by a valid town, village or city ordinance enacted pursuant to Wis. Stats. § 30.81(1) or (1m).

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the

meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Law enforcement officer means as specified in Wis. Stats. § 165.85(2)(c) and includes a conservation warden.

Motor vehicle means a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. The term "motor vehicle" includes, without limitation, a commercial motor vehicle.

(c) *Motor vehicle operation generally.* No person may operate a motor vehicle on the frozen surface of inland lakes in the county within 100 feet of a person not in or on an all-terrain vehicle, snowmobile or motor vehicle or within 100 feet of a fishing shanty at a speed exceeding ten miles per hour. An operator of a motor vehicle shall yield the right-of-way to any persons who are not in or on an all-terrain vehicle, snowmobile or motor vehicle and who are within 100 feet of the operator's motor vehicle.

(d) *Speed.* No person shall operate a motor vehicle on the frozen surface of icebound inland lakes:

(1) at a rate of speed that is unreasonable or improper under the circumstances; or,

(2) in excess of 25 mph while traveling in a continuous route, track or course, including but not limited to, a serpentine, circle, oval or any other path of travel, which is not a straightaway, unless the continuous route, track or course is located 1000' feet from the shoreline of the frozen surface of an icebound inland lake.

(e) *Operation under the influence.* No person may engage in the operation of a motor vehicle on icebound inland lakes while under the influence of an intoxicant to a degree, which renders him incapable of safely operating such motor vehicle.

(f) *Hours of darkness.* Any person operating a motor vehicle on icebound inland lakes during hours of darkness is required to light all headlamps, taillamps, and clearance lamps with which the vehicle is required to be equipped.

(g) *Penalty.* The penalty for violation of any provision of this section shall be a forfeiture of not more than \$500.00, together with the costs of prosecution. The forfeiture for a violation of this section by a minor shall not exceed \$25.00.

(Ord. No. 1992-14, §§ 1--7, 11-17-1992; Ord. No. 2011-11, 1-24-12)

Sec. 70-9. Speed limits.

The speed limits on specific streets and highways previously enacted by Ordinance 40 and its amendments are adopted by reference and may be reviewed at the highway department.

(Ord. No. 40, 12-19-1972)

Sec. 70-10. Courthouse Parking Regulations.

(a) *Purpose.* The purpose of this section is to establish a uniform policy for parking in the County Courthouse Parking Lots, in accordance with Wis. Stats. §59.52(24) and §346.55(4).

(b) *Parking areas designated.* No vehicle shall be parked, attended or unattended, in any of the County Courthouse Parking Lots except in accordance with designations placed on signs and/or pavement markings.

- (c) *Entry and departure regulated.* Operators of motor vehicles making use of the County Courthouse Parking Lots shall observe and comply with the regulatory and directional signs for entry upon and departure from the parking lots.
- (d) *Parking spaces.* All vehicles shall be parked, attended or unattended, within the designated lines in the County Courthouse Parking Lots and in such manner so as not to cause a hazard or be an obstruction to vehicular or other traffic.
- (e) *Enforcement.* This ordinance shall be enforced by the Calumet County Sheriff's Department.
- (f) *Towing.* The Sheriff or his or her designee may tow vehicles parked in violation of this ordinance. Any towing and storage charges shall be paid by the vehicle owner or operator before release of the vehicle.
- (g) *Authorization to designate.*
- (1) *Temporary event parking.* The County Administrator has authority for establishing parking areas and for regulating, prohibiting, or restricting parking on such areas or parts of such areas on a temporary basis for special events that require extraordinary demand upon parking resources. This includes, without limitations, establishing provisions which limit parking for certain purposes, which limit parking to only certain personnel, which limit parking to certain periods of time, or which require permits for parking in certain areas. Appropriate signage shall be used to indicate such designated parking areas and restrictions.
 - (2) *Permanent designations.* Except with regard to temporary event parking, the Public Grounds & Property Committee is authorized to adopt regulations concerning the parking, routing and control of motor vehicles in County Courthouse Parking Lots.
- (h) *Penalties.*
- (1) *Disabled parking.* The penalty for violation of a disabled parking designation shall be a forfeiture of not less than \$50 nor more than \$200, together with the costs of prosecution.
 - (2) *All other violations.* The penalty for violation of any provision of this section shall be a forfeiture of not more than \$50.00, together with the costs of prosecution.
 - (3) *Registration suspension/refusal.* The County authorizes use of the provisions of Wis. Stats. §345.28, for suspension of vehicle registration and refusal of registration of any vehicle, for non-payment of citations issued pursuant to this ordinance.

(Ord. No. 2006-16, 1-16-2007)

Secs. 70-11. Tow Ban.

- (a) *Purpose.* The purpose of this section is to establish a uniform policy for issuing a tow ban due to excessive weather conditions.
- (b) Tow bans can be initiated when weather conditions are unsafe to individuals responsible for removing vehicles and supervision of the removal.
- (c) The Sheriff, or his/her designee, can initiate a tow ban.

(d) *Notification.* When a tow ban is initiated, the Sheriff, or his/her designee shall notify the four Green Bay Television stations, as well as a posting on the Sheriff's Office Facebook page, to inform the public that a tow ban has been initiated.

(e) *Enforcement.* This ordinance shall be enforced by the Calumet County Sheriff's Department.

(f) The Sheriff or his/her designee may cancel a tow ban once weather conditions improve and it is no longer unsafe on the roadway. When the tow ban is canceled, the Sheriff or his/her designee will notify the four Green Bay Television stations, as well as a posting on the Sheriff's Office Facebook page, that indicates the tow ban is no longer in effect.

Secs. 70-12--70-40. Reserved.

ARTICLE II.

SNOWMOBILES

Sec. 70-41. State snowmobile forfeiture laws adopted.

Except as otherwise specifically provided in this article, all provisions of Wis. Stats. ch. 350, as amended, describing and defining regulations with respect to the use of snowmobiles in the state, for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are adopted and by reference are made part of this article as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this article.

(Ord. No. 59, § 1, 1-20-1976)

Sec. 70-42. Penalty for violation of article.

The penalty for violation of any provision of this article shall be a forfeiture as set forth in section 1-8, together with the costs of prosecution.

(Ord. No. 59, § 2, 1-20-1976)

Secs. 70-43--70-70. Reserved.

ARTICLE III.

ALL-TERRAIN VEHICLES (ATVs)

Sec. 70-71. State all-terrain vehicle forfeiture laws adopted.

This article is enacted pursuant to the authority granted in Wis. Stats. § 23.33(11). Except as otherwise specifically provided in this article, all provisions of Wis. Stats. § 23.33, and as hereafter amended, describing and defining regulations with respect to the use of all-terrain vehicles in the state, for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are adopted and by reference are made part of this article as if fully set forth in this section. Any act required to be performed or prohibited by a statute incorporated in this section by reference is required or prohibited by this article.

(Ord. No. 1992-13, § 1, 11-17-1992)

Sec. 70-72. Penalty for violation of article.

The penalty for violation of any provision of this article shall be forfeiture as set forth in section 1-8, together with the costs of prosecution.
(Ord. No. 1992-13, § 2, 11-17-1992)

RESERVED

Chapter 74

SANITARY SYSTEMS

* **Cross References:** Administration, ch. 2; buildings and building regulations, ch. 10; environment, ch. 18; floods, ch. 26; solid waste, ch. 54; streets, sidewalks and other public places, ch. 58; subdivisions, ch. 62.

Sec. 74-1. Title.

Sec. 74-2. Authority.

Sec. 74-3. Purpose.

Sec. 74-4. Scope and Intent.

Sec. 74-5. Compliance.

Sec. 74-6. Jurisdiction.

Sec. 74-7. Effective Date.

Sec. 74-8. Abrogation and Greater Restrictions.

Sec. 74-9. Interpretation and Application.

Sec. 74-10. Severability.

Sec. 74-11. Warning and Disclaimer of Liability.

Sec. 74-12. Vesting of Rights.

Sec. 74-13. Headings.

Sec. 74-14. Definitions.

Secs. 74-15--74-16. Reserved.

Sec. 74-17. Prohibitions and Limitations.

Sec. 74-18. POWTS Abandonment.

Sec. 74-19. Soil and Site Evaluation.

Sec. 74-20. Sanitary Permits.

Sec. 74-21. Application Requirements.

Sec. 74-22. System Plans.

Sec. 74-23. Sanitary Permit Cards.

Sec. 74-24. Permit Renewal.

Sec. 74-25. Permit Denial.

Sec. 74-26. Transfer of Ownership.

Sec. 74-27. Change of Plumbers.

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Sec. 74-29. Reconnection.

Sec. 74-30. POWTS Evaluation.

Sec. 74-31. Inspections.

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Sec. 74-35. Construction Affecting Wastewater Flow or Contaminant Load.

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Sec. 74-50. Appeals and Variances.

Sec. 74-51. Amendments.

CHAPTER 74

SANITARY SYSTEMS

Sec. 74-1. Title.

This chapter shall also be known as the “Calumet County Sanitary Ordinance”, or hereinafter referred to as “this Ordinance”.

Sec. 74-2. Authority.

This Ordinance is adopted pursuant to the authority granted by s. 59.70(5), 145.01(5), 145.20, 145.245 Wis. Stats., and, Ch. SPS 383, 387 and 391 Wis. Admin. Code.

Sec. 74-3. Purpose.

The purpose of this Ordinance is to establish minimum standards and criteria for the design, installation, operation, inspection and management of private onsite wastewater treatment systems (‘POWTS’), so that each system is designed, installed and operated appropriately so public health and safety is protected, and, waters of the State, including drinking water, are safe from any potentially harmful effects of a POWTS.

Sec. 74-4. Scope and Intent.

The scope and intent of this Ordinance is to regulate wastewater generation and the location, construction, installation, alteration, design and use of all POWTS as to protect the health of the residents and transients; to protect drinking water from harmful nitrates and bacteria; to secure safety from disease and pestilence; to further the appropriate use and conservation of land and water resources; and to preserve and promote the beauty of Calumet County and its communities. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for violation of this Ordinance.

Sec. 74-5. Compliance.

No POWTS or part thereof shall hereafter be located, installed, moved, reconstructed, reconnected, extended, enlarged, converted, substantially altered or their use changed without a sanitary permit and without full compliance with the provisions of this Ordinance and all other applicable County and State regulations. No person shall install, repair, add to or perform work on a POWTS except as permitted by this Ordinance. The owner of the property on which the system is located and the company or individual doing the work are both responsible for compliance with this Ordinance.

Sec. 74-6. Jurisdiction.

The jurisdiction of this ordinance shall include all lands and waters within the incorporated and unincorporated areas of Calumet County that are not served by public sewer.

Sec. 74-7. Effective Date.

This Ordinance, upon enactment by the Calumet County Board of Supervisors, shall be effective the day after adoption and shall not require approval or be subject to disapproval by any town, village or city in Calumet County.

Sec. 74-8. Abrogation and Greater Restrictions.

(a) *Repeal.* The Calumet County Private Sewage Disposal Ordinance of 1980, and any amendments thereto, including the holding tank prohibition of February 25, 1986, are hereby repealed upon enactment of this Ordinance.

(b) *Greater Restrictions.* Wherever this Ordinance imposes greater restrictions than other similar regulations, the provisions of this Ordinance shall govern. This Ordinance shall not be more or less stringent than the governing rules established by the applicable sections of the Wis. Stats. or Wis. Admin. Code.

(c) *Deed Restrictions, Etc.* It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. Calumet County shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.

(d) *Prior Permits.* It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.

Sec. 74-9. Interpretation and Application.

The provisions of this Ordinance shall be construed to be the minimum requirements and shall be broadly and literally construed in favor of Calumet County, shall not be deemed a limitation or repeal of any other power granted by the Wis. Stats. and the Wis. Admin. Code, and, is limited only by express language. Further interpretation and application of the provisions of this Ordinance shall take into account the purposes of this Ordinance and any adverse affects that an interpretation may have upon such purposes.

Sec. 74-10. Severability.

If any section, paragraph, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular private onsite wastewater treatment system, part thereof, use, structure, land, or waters is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other private onsite wastewater treatment system, part thereof, use, structure, land, or water, not specifically included in said judgment.

Sec. 74-11. Warning and Disclaimer of Liability.

This Ordinance shall not create a liability on the part of or a cause of action against the County or any employee thereof for any POWTS which may not function as designed. There shall be no liability or warranty for any site which is approved or denied. The issuance of a sanitary permit and the final inspection of such a system does not warrant the system's function, nor is there a guarantee that the system is free of defects or that all aspects of the system comply to Wis. Stats. or Wis. Admin. Code requirements.

Sec. 74-12. Vesting of Rights.

No rights to any particular system or use vest in any property owner simply because the system or use is permitted by this Ordinance. Such system or use may be prohibited by future amendments to this Ordinance. However, the approval and issuance of a permit shall vest in the property owner the right to use the system or use in the manner specifically approved by the permit, unless or until the permit expires. No amendment to this Ordinance which prohibits a particular system or use shall be applicable to any system or use developed under a previously issued permit, except to that extent that such system or use is rendered nonconforming.

Sec. 74-13. Headings.

Headings are used throughout this Ordinance to assist users of this Ordinance. If a heading should conflict with the text in interpreting this Ordinance, the text shall control.

Sec. 74-14. Definitions.

(a) *Word Usage.* In the interpretation of this Ordinance, the provisions and rules of this Ordinance shall be observed and applied, except when the context clearly requires otherwise:

- (1) *Tense.* Words used or defined in 1 tense or form shall include other tenses and derivative forms.
- (2) *Singular and Plural.* Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) *Gender.* The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) *Shall.* The word “shall” is mandatory.
- (5) *May.* The word “may” is permissive.

(b) *Definitions.* Definitions provided in SPS 381, 382, 383, 384, 385, 387, and 391, and NR 113, 811, and 812 of the Wis. Admin. Code, are hereby adopted by reference. When used in this Ordinance, the following terms shall have the meanings herein assigned to them. Words used in this Ordinance, but not defined herein or in any of the Wisconsin Administrative Code Chapters adopted by reference, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it. For purposes of easy reference within this section, the following terms will appear in italicized print.

Bedrock. The rocks that underlie soil material or are at the earth's surface. Bedrock is encountered when the weathered-in place consolidated material, larger than 2mm in size, is greater than 50% by volume.

Building. A structure for support, shelter or enclosure of persons or property.

Cesspool. An excavation which receives domestic wastewater by means of a drain system without pretreatment of the wastewater and retains the organic matter and solids permitting the liquids to seep from the excavation.

Certified Soil Tester. A person licensed by the State as a Certified Soil Tester.

Code Administrator. An authorized representative of the Planning, Zoning and Land Information Department hired by Calumet County for the purposes of carrying out the terms of this Ordinance. A designee appointed by the Calumet County Board of Supervisors to enforce the provisions of this Ordinance shall also be considered a Code Administrator and shall be held responsible for all the duties of a Code Administrator, as determined by this Ordinance. The Code Administrator shall be specifically trained or experienced in performing those tests necessary to determine the feasibility of the safe disposal of sanitary works on proposed building sites and so certified by the department.

Community. A town, village, city or group of adjacent towns, villages or cities, or portions thereof, having common social, economic or physical interests.

County. The Calumet County Land & Water Conservation Department or staff thereof which also serves as the Issuing Agent and has the authority to sign documents necessary to carry out the intent of this Chapter.

Department. The State of Wisconsin Department of Safety and Professional Services.

DNR. The State of Wisconsin Department of Natural Resources.

Dwelling. A structure or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by 1 person or by 2 or more persons maintaining a common household, to the exclusion of others.

Effluent. Any untreated or partially treated domestic wastewater constituent, which includes the untreated discharge from any treatment tank or soil dispersal component.

Failing POWTS. A failing POWTS is one, which causes or results in any of the following conditions:

- (1) The discharge of sewage into surface water or groundwater.
- (2) The introduction of sewage into zones of saturation, which adversely affects the operation of a POWTS.
- (3) The discharge of sewage to a drain tile or into zones of bedrock.
- (4) The discharge of sewage to the surface of the ground.
- (5) The failure to accept sewage discharges and backup of sewage into the structure served by the POWTS.

Fee Schedule: The fee schedule established by the Planning, Zoning, and Farmland Preservation Committee on file in, and implemented by, the Planning, Zoning and Land Information Department. The fee schedule may also include fees established by the Planning, Zoning, and Farmland Preservation Committee, which are placed on the landowner's tax bill to cover the expense of a maintenance program.

Field Verification. An evaluation of a soil profile conducted by a licensed County staff member at a site that was tested by a certified soil tester.

Flood Plain. The land adjacent to a body of water which has been or may be covered by flood water.

High Groundwater. Zones of soil saturation, which include: perched water tables, shallow regional groundwater tables or aquifers, or zones that are seasonally, periodically or permanently saturated.

Holding Tank. A watertight receptacle for the collection and holding of wastewater.

Human Habitation. The act of occupying a structure as a dwelling or sleeping place, whether intermittently or as a principal residence.

Infiltrative Surface (System Elevation). The plane within a treatment or dispersal component at which effluent is applied to in situ (native) soil or engineered soil.

Issuing Agent. The Calumet County Code Administrator shall act as the Issuing Agent and is hereby assigned the duties of administering the POWTS program.

Licensed Pumper. A person or firm licensed by the State of Wisconsin to pump, haul and dispose of sewage and septage (also known as a 'certified septage servicing operator').

Licensed Staff Member. Any member of the Calumet County Planning, Zoning and Land Information Department, who is licensed by the State of Wisconsin as a Certified Soil Tester and/or POWTS Inspector, depending on the type of inspection.

Limiting Factor. Estimated depth to seasonal saturation, bedrock, or high groundwater.

Mottling. Spots or streaks of contrasting soil colors usually caused by soil saturation for some period of a normal year.

Non-plumbing Sanitation System. Sanitation systems and devices within the scope of SPS 391, Wis. Admin. Code, which are alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets, and privies.

Occupancy. The purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.

Owner. The person or persons indicated as the property owner on the *Calumet County Land Records System*, unless a signed warranty deed has been submitted to indicate otherwise.

Plumber. A person licensed by the State as a Master Plumber or Master Plumber-Restricted Service.

Portable Restroom. Means a self-contained portable unit that includes fixtures, incorporating holding tank facilities designed to receive human excrement.

Private Onsite Wastewater Treatment System (POWTS). A sewage treatment and disposal system serving a single structure with a treatment tank, pre-treatment component, and/or soil dispersal component located on the same parcel as the structure; an alternative sewage system approved by the County including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than 1 structure or a system located on a different parcel

than the structure, and may be owned by the property owner or by a special purpose district. For purposes of this Ordinance, a private onsite wastewater treatment system is also referenced as a 'POWTS'.

Privy. An enclosed non-portable toilet into which non-water carried human wastes are deposited.

- (1) *Pit Privy.* Constructed in soils which pass a soil evaluation for a conventional POWTS.
- (2) *Vault Privy.* Designed to retain contents in a water proof vault or holding tank.

Register of Deeds. The Office of the Calumet County Register of Deeds.

Sanitary Permit. A permit issued by the Department or County for the installation of an approved POWTS.

- (1) *State Sanitary Permit.* A permit issued by the Department for the installation or modification of a POWTS.
- (2) *County Sanitary Permit.* A permit issued by the County for the reconnection of a POWTS or for the installation of a privy.

Septic Tank. An anaerobic treatment tank which receives and partially treats sewage through processes of sedimentation, oxygenation, flotation and bacterial action so as to separate solids from the liquid in the sewage and discharges the liquid to a soil absorption system.

Sewage. The water carried wastes (organic) created in and to be conducted away from residences, private accessory buildings, commercial or industrial establishments, and public buildings.

Soil Absorption System. This definition shall include conventional (in-ground gravity), in-ground pressure, at-grade and mound components. This definition shall also include systems previously authorized as seepage bed or seepage trench systems.

Soil and Site Evaluation. The procedure specified in SPS 385, Wis. Admin. Code, conducted by a Certified Soil Tester used for the purposes of specifying, designing, and installing a POWTS to serve a structure.

Soil Pit. An excavation large enough for a person to stand in for the purpose of evaluating a soil profile.

Soil Profile. A vertical section of the soil containing 1 or more soil horizons.

Structure. Anything constructed, erected, or relocated from another premises, that is either permanently or temporarily attached to or resting on or in the ground, stream, lake bed, or another structure. 'Structures' shall include, but not limited to, buildings (regardless of size or use), mobile homes, manufactured homes, dwellings, gazebos, and swimming pools.

Suitable Soil Material. Any natural soil, sand, or gravel not containing any debris such as wood, plastic, metal, glass, paper, rubber, or any other similar materials.

Wash Water. Water, which has been contaminated by soap, detergent, or any other cleaning agent.

Waters of the State. Includes all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems, and other surface or groundwater, natural or artificial, public or private, within the State or its jurisdiction.

Wis. Admin. Code: The Wisconsin Administrative Code.

Wis. Stats.: The Wisconsin State Statutes.

Zone of Seasonal Saturation. The zone in which all soil pores are filled with water during some period of a year as determined by mottling.

Sec. 74-15.—74-16. Reserved.

Sec. 74-17. Prohibitions and Limitations.

- (a) All domestic wastewater shall enter a POWTS unless otherwise exempted by the State or this Ordinance.
- (b) Every building intended for human habitation or occupancy shall be provided with public sewer, a properly functioning POWTS or where there is no plumbing in the structure, a non-plumbing sanitation system that complies with SPS 391.
- (c) Portable restrooms shall be permitted for recreational or temporary use only. A sanitary permit is not required for a portable restroom.
- (d) Travel trailers and recreational vehicles connected to a self contained unit dumped at an approved sanitary dump station are excluded from this section.
- (e) Any POWTS or portions(s) thereof installed within a floodplain shall comply with all applicable requirements of NR 116, Wis. Admin. Code, the Floodplain Ordinance (Chapter 51) of this Code of Ordinances.
- (f) Holding Tanks.
 - (1) The installation and use of a holding tank for new residential construction is prohibited.
 - (2) The installation and use of a holding tank shall only be permitted when there is no possibility of installing a POWTS, approved by SPS 383, Wis. Admin. Code, that provides onsite treatment and disposal of domestic wastewater. A holding tank may be installed for the following situations:
 - A. As a replacement system; or
 - B. To serve a lot which was approved for creation by the County Planning, Zoning, and Farmland Preservation Committee, or, which is part of a recorded subdivision prior to February 25, 1986.
 - (3) A holding tank may be installed to serve public recreational facilities located in County,

City, Village or Town parks.

- (4) A holding tank may be installed to serve a use, other than a dwelling, with a design wastewater flow of 150 gallons per day or less.
- (5) The installation and use of a holding tank for a non-residential use with a design wastewater flow of greater than 150 gallons per day may be considered on an individual basis by the Calumet County Planning, Zoning, Land and Water Conservation Committee.

(g) Failing Systems.

- (1) When a failing POWTS is identified, it shall be brought into compliance with current code requirements, replaced with a code-compliant system, or its use discontinued within that period of time specified by the Code Administrator.
- (2) An unlawfully modified POWTS which is discharging untreated or partially treated sewage into the ground, onto ground surface, or into surface waters may be ordered by the County to be corrected or replaced with a compliant system.

Sec. 74-18. POWTS Abandonment.

- (a) The components of an existing POWTS that are not part of the approved design of a replacement system shall be abandoned at the time of the installation of the replacement system by the plumber installing the system. The abandonment shall comply with SPS 383, Wis. Admin. Code.

Sec. 74-19. Soil and Site Evaluation.

- (a) Soil and site evaluations shall be done prior to the issuance of permits as specified in SPS 383 and 385 of the Wis. Admin. Code.
- (b) County verification of a soil and site evaluation may be necessary to determine the suitability of a lot for a POWTS. This verification will be made at the discretion of the County and will be made prior to the issuance of the sanitary permit.
 - (1) To ensure that accurate soil interpretations can be made, field verifications will be performed when weather and lighting conditions are suitable.
 - (2) All field verifications for soil tests shall be done by evaluating a soil profile. Soil test pits shall be constructed which allow adequate visual observation of the soil profile in place. This is best accomplished by the excavation of backhoe pits.

- (c) A certified soil tester may request County verification of a soil evaluation report before a complete sanitary permit application is submitted.

Sec. 74-20. Sanitary Permits.

- (a) Every POWTS shall require a separate application and State sanitary permit.
- (b) A State sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, before any POWTS or part thereof may be installed, replaced, reconnected,

or modified. A State sanitary permit is not required for minor repairs (e.g. addition of manhole risers, replacement of manhole covers, risers, baffles, pumps).

- (c) A State sanitary permit shall be obtained by the property owner, his agent or contractor, in the name of the property owner, prior to the issuance of a building permit for the construction of any structure which requires a POWTS.
- (d) A County sanitary permit shall be obtained prior to constructing or installing a privy.
- (e) A sanitary permit shall be valid for 2 years from the original date of issuance.
- (f) If any part of an existing POWTS has failed or requires replacement or modification, a new State sanitary permit shall be obtained for the modification, replacement, alteration or addition of the POWTS. Prior to the issuance of the new State sanitary permit:
 - (1) The remainder of the system shall be evaluated for compliance with codes in effect at the time the system was originally installed.
 - (2) A soil and site evaluation report shall be submitted for those components that utilize soil for treatment or dispersal, unless a report acceptable to the County is already on file with the County.
 - (3) If any part of a POWTS is found to be defective or not in conformance with the applicable provisions of this Ordinance, the State sanitary permit application shall include specifications for the repair, renovation, replacement or removal of that part.
- (g) Any sanitary permit provisions, stipulations or conditions of approval shall have the same authority as any provision of this Ordinance.

Sec. 74-21. Application Requirements.

- (a) A sanitary permit application shall include the following information which shall be furnished by the applicant on forms required by the State and/or the County along with all applicable fees:
 - (1) Names and addresses of the applicant (owner of the site) and the plumber employed (when applicable).
 - (2) Legal description of the subject site and the tax identification or parcel number.
 - (3) All lot dimensions.
 - (4) Building use (single family, duplex, etc.).
 - (5) Soil evaluation report.
 - (6) System plans (Sec. 74-22, *System Plans*).
 - (7) Appropriate agreements and contracts for system management and maintenance.
 - (8) Copies of any documents required in Sec. 74-21(e), *Application Requirements*, and verification that they have been recorded.

- (9) Any other information required by the County.
- (b) When any official State action is required prior to the issuance of a State sanitary permit, an original copy of the official action shall accompany the application.
- (c) A State sanitary permit for the installation of a holding tank shall be granted only if the owner enters into a holding tank agreement and servicing contract.
- (d) A State sanitary permit for the installation of a holding tank shall not be issued unless a soil and site evaluation determines that the property is unsuitable for any other type of system permitted by SPS 383, Wis. Admin. Code.
- (1) The County may waive the soil testing requirement on a case by case basis if lot size and/or topography would prevent the installation of a soil absorption system.
- (e) The following documents must be recorded with the Register of Deeds prior to sanitary permit issuance:
- (1) Maintenance agreements or other POWTS documents, when recording is required by SPS 383, Wis. Admin. Code or this Ordinance.
- (2) When a POWTS, or part thereof, are located on a different parcel than the structure served, an appropriate easement or combined parcel affidavit must be recorded.
- (3) When a POWTS serves more than 1 structure under different ownership, a document identifying all parties that have ownership rights and are responsible for the operation and maintenance must be recorded.
- (4) When the design wastewater flow of a POWTS for a dwelling is not based upon the number of bedrooms within the dwelling, a deed restriction limiting occupancy to that used in the design must be recorded.
- (5) If a holding tank is installed in lieu of another type of POWTS for a use with a design wastewater flow of 150 gallons per day or less, the property owner shall record an affidavit agreeing to install a POWTS, approved under SPS 383, Wis. Admin. Code, that provides onsite treatment and disposal of domestic wastewater if any change of occupancy or use occurs which results in a design wastewater flow which exceeds 150 gallons per day.
- (f) The County reserves the right to require floodplain delineation for a proposed POWTS area prior to State sanitary permit issuance. The County may require elevations on plans to be tied to floodplain elevation datum by a registered land surveyor.
- (g) The County reserves the right to refuse incomplete or incorrect permit applications or to delay permit issuance until corrected or completed applications are received.

Sec. 74-22. System Plans.

- (a) System plans shall be submitted for approval to the County or to the State in accordance with SPS 383, Wis. Admin. Code. Plans shall comply with the requirements of SPS 383, Wis. Admin. Code, and this Ordinance.
- (b) Plans submitted to the County shall include the original plan and 2 copies.
- (c) When plans are reviewed and approved by the State, at least 1 set of the plans submitted to the County shall bear an original State approval stamp or seal.
- (d) Plans submitted shall be clear, legible, and permanent copies.
- (e) Plans submitted shall comply with SPS 383, Wis. Admin. Code and include the following:
 - (1) The name of the property owner and the legal description of the site.
 - (2) Estimated daily wastewater flow and design wastewater flow.
 - (3) A detailed plot plan (site plan), dimensioned or drawn to scale, on paper no smaller than 8 ½ inches by 11 inches in size. The plot plan shall delineate the lot size and the location of all existing and proposed: POWTS components; building sewers; private interceptor main sewers; active and unused or abandoned wells or well drillholes; water mains or water services; buildings; lot lines; swimming pools; navigable waters; known sinkholes; and the benchmark established on the soil evaluation report. Adjoining properties shall be checked to ensure that the horizontal setback parameters in SPS 383.43, Wis. Admin. Code, are complied with. All separating distances and dimensions shall be clearly shown on the plot plan.
 - (4) Details and configuration layouts depicting how the system is to be constructed.
 - (5) A management plan for the proposed POWTS.
 - (6) A description of a contingency plan in the event the proposed POWTS fails and cannot be repaired.
 - (7) Sufficient supporting information to determine whether the proposed design, installation, and management of the proposed POWTS or modification to an existing system complies with this Ordinance.
- (f) Plans shall be signed or sealed as specified in SPS 383, Wis. Admin. Code.
- (g) A copy of the approved plans shall be maintained at the construction site until the POWTS installation is completed, inspected, and accepted. The plans shall be made available to the County or the State upon request.
- (h) A modification to the design of a POWTS which has been previously approved shall be submitted to the County or the State as specified in SPS 383, Wis. Admin. Code. Plan revisions must be approved prior to system installation.

Sec. 74-23. Sanitary Permit Cards.

- (a) The permit card issued by the County to the property owner or their agent shall serve as the sanitary permit.
- (b) The permit card shall be displayed at the site in such a manner that it will be visible from a road abutting the lot during all construction phases.
- (c) The permit card may not be removed until the POWTS has been installed, inspected, and approved by the County.
- (d) Failure to display the permit card shall be considered a violation of this section and may subject the property owner, their agent or contractor, to penalty provisions of this Ordinance.

Sec. 74-24. Permit Renewal.

- (a) A property owner may renew a sanitary permit for which a POWTS has not been installed, replaced, repaired, modified or reconnected prior to the expiration date of the original permit by submitting a new sanitary permit application to the County indicating the renewal.
- (b) The sanitary permit application shall contain the owners name and the signature of the licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.
- (d) The renewal shall be based on regulations in force at the time of renewal.
- (e) If a permit expires, a new sanitary permit shall be obtained by the owner or their agent prior to beginning construction.

Sec. 74-25. Permit Denial.

- (a) When applicable provisions of Wis. Stats., Wis. Admin. Code or this Ordinance have not been complied with when applying for a sanitary permit, the permit shall be denied. Reasons for the denial shall be forwarded to the plumber, landowner, and when appropriate, the State.

Sec. 74-26. Transfer of Ownership.

- (a) A property owner may transfer a valid sanitary permit to a new property owner by submitting a new sanitary permit application to the County indicating the transfer of ownership.
- (b) The sanitary permit application shall contain the name of the new owner and the signature of the licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.
- (d) Transfer of ownership shall not affect the expiration date or renewal requirements.

Sec. 74-27. Change of Plumbers.

- (a) A property owner may change plumbers by submitting a new sanitary permit application to the County indicating the change of plumber.
- (b) The sanitary permit application shall contain the name of the owner and the signature of the new licensed plumber responsible for the installation of the POWTS.
- (c) The sanitary permit application shall be submitted to the County with the appropriate fee as specified in the fee schedule.
- (d) Sanitary permits for systems requiring State plan approval shall not be transferred to a different plumber unless the plan bears the stamp of an architect or engineer, plumbing designer, or a new State level approval is obtained by the new plumber.

Sec. 74-28. Emergency Repairs and Installations.

- (a) Emergency tank installations may be performed provided the owner, or owner's agent, makes acceptable arrangements with the County to secure a sanitary permit.
- (b) Emergency repairs or removal of stoppages may be performed without a sanitary permit provided such work is reported to the County as soon as possible to make a determination as to whether a sanitary permit is required.
- (c) The installer must notify the County prior to performing any work in accordance with the inspection section of this Ordinance.

Sec. 74-29. Reconnection.

- (a) A County sanitary permit for a reconnection shall be obtained prior to:
 - (1) Construction of a structure to be connected to an existing POWTS.
 - (2) Disconnection of a structure from an existing POWTS and connection of another structure to the system (e.g. replacement of a mobile home).
 - (3) Conversions (change in use) of public buildings and/or places of employment.
 - (4) Replacement or repair of piping other than distribution piping (e.g. building sewer, conveyance pipe or force-main piping).
- (b) Prior to issuing a County sanitary permit for a reconnection, the existing POWTS shall be examined to:
 - (1) Determine if it is functioning properly or whether it is a failing system.
 - (2) Determine if it will be capable of handling the proposed wastewater flow and contaminant load from the building to be served.
 - (3) Determine that all minimum setback requirements of SPS 383, Wis. Admin. Code will be maintained.
- (c) Application for a County sanitary permit for a reconnection shall include the following:

- (1) All items listed in Sec. 74-21(a)1-4 and (a)7-9, *Application Requirements*.
 - (2) A POWTS evaluation report, as specified in Sec. 74-30, *POWTS Evaluation*.
 - (3) Complete plans and specifications, as specified in Sec. 74-22, *System Plans*, for any system components which will be modified or replaced.
 - (4) If reconnection to an existing holding tank is required it shall require a new servicing contract and updated holding tank agreement.
 - (5) If reconnection to an existing system, other than a holding tank, is required, it shall require a new maintenance agreement or contract.
- (d) If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the POWTS is connected, a completed and approved 'Per Capita Sizing Affidavit' shall be signed and recorded with the Register of Deeds.
- (e) Replacing a structure with a new or different structure within 3 years of the date of permit issuance will only require a statement that the system has not been altered, a statement that a modification in wastewater flow or contaminant load will not occur, and, a plot plan that documents all setbacks between the structure and system components.
- (f) All systems shall be inspected at the time of reconnection, prior to backfilling, to ensure that proper materials and methods are being used.

Sec. 74-30. POWTS Evaluation.

- (a) When an evaluation of an existing POWTS is required by this Ordinance, a POWTS evaluation report shall be completed which shall include all of the following, except where noted:
- (1) A soil and site evaluation report provided by a certified soil tester verifying that the vertical separation distance between the infiltrative surface of the existing treatment or dispersal component and estimated high groundwater and/or bedrock complies with SPS 383, Wis. Admin. Code.
 - A. Submittal of a soil and site evaluation report will not be required if:
 1. The existing POWTS is a code compliant holding tank; or
 2. An acceptable sanitary permit and soil evaluation report are already on file at the County for the existing POWTS.
 - (2) A report provided by a licensed plumber, certified septage servicing operator, POWTS inspector or other person(s) authorized to do so by SPS 383, Wis. Admin. Code relative to the:
 - A. Condition, capacities, baffles, and manhole covers for any existing treatment or holding tanks; and

- B. Condition and capacities of all other system components and verifying that the system is not a failing system; and
- C. A plot plan depicting the layout of the existing system components, including the location of tanks, sewer lines, treatment/dispersal areas, vents and/or observation pipes, etc. The location of each component shall be shown in relation to any existing structures, driveways, waterlines, property lines, navigable waterways and private wells.
- D. An evaluation of the use and wastewater flow of the structure(s) served relative to the capacity of the existing POWTS.
- E. Verification that all domestic wastewater from the structure discharges into the POWTS.

(b) POWTS evaluation reports must be on forms provided by or in a format approved by the County and must be signed by the licensed or certified person(s) performing the evaluation(s).

(c) POWTS evaluation reports must be submitted to the County within 30 days of completion of the evaluation.

Sec. 74-31. Inspections.

(a) Notice for final inspection shall be given to the County at least 24 business hours in advance of the requested time and date of the inspection for all POWTS installed, modified, or reconnected.

(b) When a sanitary permit is required, no part of a POWTS component may be covered nor any POWTS component put into service until the County has had an opportunity to inspect the system.

(c) If an inspection is not made by the end of the next workday, after the requested inspection day (excluding Saturdays, Sundays and holidays), the completed system can be backfilled.

(d) The plumber in charge shall provide the necessary equipment and properly licensed personnel for the inspection.

(e) The interior plumbing of a structure may be inspected to verify that all domestic waste discharges to a State approved POWTS.

(f) POWTS may be inspected periodically, after initial installation inspections, to determine whether the construction, operation or maintenance of a POWTS conforms to the Wis. Stats., Wis. Admin. Code and this Ordinance.

Sec. 74-32. Fees and Charges.

(a) Fees shall be as determined and adjusted from time to time by the Calumet County Planning, Zoning, and Farmland Preservation Committee and as maintained by the County in its fee schedule. Pursuant to Wis. Stats. §66.0628(2), any fee imposed shall have a reasonable relationship to the service for which the fee is imposed.

(1) After a sanitary permit application has been processed, the fees shall not be refunded.

- (2) No sanitary permit shall be issued until the required fee has been paid in full to the County. The fee for an after-the-fact permit shall be doubled.
- (4) Each owner of a POWTS shall annually be charged a fee of \$15.00 per POWTS for the recordkeeping attributable to the inventory and tracking of the pumping and maintenance of each system, pursuant to Wis. Stat. Sec. 66.0628. The fee shall be recovered in the same manner as municipalities may make property assessments pursuant to Wis. Stat. Sec. 145.20(4) and Wis. Stat. Sec. 66.0703 .

Sec. 74-33.—74-34. Reserved.

Sec. 74-35. Construction Affecting Wastewater Flow or Contaminant Load.

- (a) A modification in wastewater flow or contaminant load shall be considered to occur:
 - (1) For commercial facilities, public buildings and places of employment, when there is a proposed change in occupancy of the structure; or the proposed modification affects either the type or number of plumbing appliances, fixtures or devices discharging to the system; and
 - (2) For dwellings, when there is an increase or decrease in the number of bedrooms.
- (b) Prior to commencing the construction of an addition to or modification of a structure which will affect the wastewater flow and/or contaminant load to an existing POWTS, the owner(s) of the property shall:
 - (1) Possess a State sanitary permit to either modify the existing POWTS or construct a POWTS to accommodate the modification in wastewater flow or contaminant load; or
 - (2) Provide the following to the County:
 - A. Documentation that a POWTS of adequate capability and capacity to accommodate the wastewater flow and contaminant load already exists to serve the structure, as specified in SPS 383, Wis. Admin. Code;
 - B. Documentation showing that the location of the proposed structure conforms to the applicable setback distances to all of the existing POWTS components; and
 - C. A POWTS evaluation report, as specified in Sec. 74-30, *POWTS Evaluation*.
 - D. If wastewater flow is to be based upon per capita occupancy or usage of the structure to which the POWTS is connected, a completed and approved 'Per Capita Sizing Affidavit' shall be signed and recorded with the Register of Deeds.
 - (3) Unless otherwise authorized by the County any installation, addition, or modification of a system must be completed, inspected and accepted before the addition or modified area of the structure may be occupied.

Sec. 74-36. Construction Not Affecting Wastewater Flow or Contaminant Load.

(a) Prior to commencing construction of any structure or addition to a structure on a site where there exists a POWTS the owner or their agent shall determine that the proposed structure conforms with applicable setback limitations and daily wastewater flows identified in SPS 383, Wis. Admin. Code. Documentation, shall be submitted to the County.

Sec. 74-37. County Inventory and Maintenance Program.

(a) All POWTS shall be managed and maintained in accordance with SPS 383, 384, Wis. Admin. Code and this Ordinance.

(b) The property owner or the owner's agent shall report to the County each inspection, maintenance or servicing event, in accordance with SPS 383.55, Wis. Admin. Code and this Ordinance.

(c) The property owner shall submit a new or revised maintenance agreement and/or servicing contract to the County whenever there is a change to such document(s).

(d) An initial inspection of all POWTS not being maintained in the County's septic tank or holding tank maintenance program shall be required. The initial inspection shall be conducted and reported in accordance with Sec. 74-30(a)(2) and 74-30(b) and (c), *POWTS Evaluation*.

(1) If an existing POWTS is found to be non-compliant or failing the existing system shall be repaired or replaced within 2 years.

(2) If the existing POWTS passes the initial inspection it will be added to the County's septic tank or holding tank maintenance program.

(3) A County inspection to verify the results of the initial inspection may be required. Any costs associated with the County inspection, including, but not limited to, backhoe pits or pumping fees are the responsibility of the owner.

Sec. 74-38. Septic Tank Maintenance.

(a) All new and existing septic tanks shall be visually inspected, and pumped if necessary, within 3 years of the date of installation or, in the case of new construction, within 36 months of the date of occupancy, and at least once every 3 years thereafter. The County will make a reasonable attempt to notify all property owners by mail when an inspection or pumping event is required under this section. Failure to receive such notification shall not void the need for inspection and pumping, when applicable.

(b) Visual inspection of a POWTS shall be conducted by a licensed plumber or other person (s) authorized to do so by SPS 383, Wis. Admin. Code to determine the condition of the tank and whether wastewater or effluent from the POWTS is ponding on the ground surface.

(c) If, upon inspection, it is determined that less than 1/3 of the volume of the septic tank is occupied by sludge and scum, pumping may be deferred until the next 3 year cycle.

(d) Pumping of a septic tank shall be done by a licensed pumper in accordance with NR 113, Wis. Admin. Code.

(e) The owner's agent or inspector shall enter the inspection report using the online system provided by Calumet County. Information provided shall verify the condition of the tank, whether wastewater or

effluent from the POWTS is discharging to or ponding on the ground surface, and the date of pumping within 30 calendar days of the date of inspection and/or pumping.

(f) Reports shall include all information required in SPS 383.55, Wis. Admin. Code, and be signed by the person(s) inspecting and pumping the POWTS.

(g) The County may require verification of any information contained in an inspection, evaluation, maintenance and/or servicing report.

Sec. 74-39. Holding Tank Maintenance.

(a) Holding Tank Agreement:

- (1) The owner of each holding tank shall enter into a holding tank agreement with the appropriate city, village or town guaranteeing that the local governmental unit will service the holding tank if the owner fails to have the holding tank properly serviced in response to orders issued by the County.
- (2) The property owner shall maintain the holding tank(s) so as to conform to all requirements of SPS 383, Wis. Adm. Code, relating to holding tanks.
- (3) The holding tank agreement shall be submitted to the County prior to the issuance of a State sanitary permit for a holding tank(s).
- (4) The holding tank agreement shall be binding upon the owner, the heirs of the owner and assignees of the owner.
- (5) The agreement shall be filed with the Register of Deeds and shall be recorded in a manner which will permit the existence of the agreement to be determined by reference to the property where the holding tank is installed.
- (6) The property owner shall properly maintain the holding tank(s) by notifying the contracted licensed pumper to have the holding tank(s) pumped out when the tank(s) are full.
- (7) An owner of a holding tank found to be violating the holding tank agreement and who is unable to replace the holding tanks with a soil absorption system shall hire a licensed plumber to install a water meter and evaluate the holding tanks for code compliance and sign a new service contract which requires the licensed pumper to report water meter readings at each pumping.

(b) Holding Tank Servicing Contract:

- (1) All owners of existing and future holding tank(s) shall enter into a holding tank servicing contract with a licensed pumper.
- (2) The property owner shall permit the pumper to have access and enter upon the property for the purpose of servicing the holding tank(s).
- (3) The property owner shall provide and maintain an all-weather access road or drive from

the riser(s) of the holding tank(s) so that the pumper can service the holding tank(s) with the pumping equipment.

- (4) The holding tank servicing contract shall be filed with the County prior to the issuance of a State sanitary permit for a holding tank(s).
- (5) If the property owner decides to contract with a licensed pumper who is not named on the holding tank servicing contract filed at the County, a new holding tank servicing contract must be filed in the same office within 10 business days from the date of change.

(c) Pumping Reports:

- (1) Pumping reports shall be submitted for every existing and future holding tank(s) installed in Calumet County, using the online system provided by Calumet County. The County shall provide sufficient and secure access to said system.
- (2) It shall be the responsibility of the licensed pumper to submit the pumping reports to the County on a semi-annual basis within 30 days of the end of the six month period.
- (3) The following information shall be included on the pumping report:
 - A. Name and signature of the licensed pumper.
 - B. Owner's name and address of property where tank is located.
 - C. Date of pumping and gallons pumped.
 - D. Location of disposal site.
 - E. If the property is used on a seasonal or permanent basis.
- (4) If upon review of a submitted pumping report, the County finds that a holding tank is not being maintained properly, the County may enter the property and inspect the holding tank(s) for compliance and to determine whether it is a failing system.
- (5) Any holding tank which is found to discharge sewage to the ground surface, including intentional discharges and discharges caused by neglect, shall be considered a failing POWTS. When a failing POWTS is identified, it shall be brought into compliance with current code requirements, replaced with a code compliant system, or its use discontinued within that period of time required by County order.

Sec. 74-40. Pumping.

- (a) All persons that pump septic and/or holding tanks shall be licensed and/or registered by the State of Wisconsin except as permitted by NR 113.05(4).
- (b) Any septic tank or holding tank wastes that are to be field-spread shall be limited to those sites that have been inspected and approved by written permit from the Wisconsin DNR, and, such spreading shall be performed in accordance with State regulations of NR 113 of the Wis. Admin. Code.

Sec. 74-41. Land Division Requirements.

(a) A complete evaluation of an existing POWTS is required when there is a land division on which there is 1 or more structure(s) served, or designed to be served, by a POWTS. Prior to the recording of a land division, the existing POWTS shall be evaluated for compliance and the soils on that site shall be tested for suitability for the type of POWTS installed.

- (1) The grantor or the grantor's agent must submit a POWTS evaluation report, as specified in Sec. 74-30, *POWTS Evaluation*, to the County prior to the land division.
- (2) The County will waive the requirement for evaluation of an existing POWTS if at least 1 of the following circumstances exist:
 - A. A code compliant POWTS was installed less than 3 years prior to the land division and said POWTS has been maintained in accordance with the County's maintenance program requirements.
 - B. A valid State sanitary permit has been issued for the replacement or repair of the existing POWTS.
 - C. For a land division, if there will be no ownership change of the dwelling unit(s), providing the owner records an affidavit with the Register of Deeds agreeing to conduct the evaluation upon sale of the property.
 - D. Documentation from a municipality or sanitary district verifying that public sewer will be available to serve the structure(s) within 12 months of the transfer of the property or land division.

(b) The County shall review and make a determination on a report within 10 business days after receiving all required information and fees, except when weather conditions prevent verification of the report.

(c) If the report confirms that the POWTS is code compliant, the County shall file the report and take no remedial action.

(d) When a report confirms that the POWTS is failing or non-compliant with this Ordinance the existing POWTS or POWTS component shall be repaired or replaced with a code compliant POWTS or otherwise brought into compliance as required by the County.

- (1) The installation of a replacement system shall occur within 1 year of recording the land division.
- (2) During the winter months where installation of a POWTS will be unadvisable, the property owner will be allowed to install a temporary holding tank for use during this time period. Once weather allows the installation, the remainder of the POWTS shall be installed within 60 days.

(Ord. No. 2010-15, 11-1-2010.)

Sec. 74-42. Privies.

- (a) No privy of any kind may be constructed, erected, altered or moved unless the owner of the property possesses a valid County sanitary permit.
- (b) All privies shall conform to the minimum standards established in SPS 391, Wis. Admin. Code.
- (c) Pit privy permit applications shall be accompanied by soil data provided by a certified soil tester to determine compliance with SPS 391, Wis. Admin. Code.
- (d) Permitted Sites:
 - (1) A privy may be permitted only when the structure or premises served by the privy is not provided with an indoor plumbing system.
 - (2) Privies shall be permitted in parks and campgrounds whether public or private.
- (e) Prohibited Sites:
 - (1) If plumbing is installed in the structure or running water is supplied to the structure, an acceptable method of sewage disposal other than, or in addition to, a privy must be provided.
 - (2) If, upon determination the storage chamber of an existing pit privy is located in unsuitable soils, the privy shall be immediately abandoned.

Sec. 74-43. Public Sewer.

- (a) When public sewer approved by the DNR becomes available to the structure or premises served, the use of an existing POWTS shall be disconnected and the system abandoned in accordance with the provisions of SPS 83, Wis. Admin. Code within 1 year. The determination of whether sewer is available shall be made by the local sanitary district.
- (b) All new development within a sewer service area shall be by public sewer only, with the following exceptions:
 - (1) Where a property is located within a sewer service area, and a sanitary district is physically unable to provide sewer to the property, a State sanitary permit for a POWTS may be issued provided that the property owner, in conjunction with the sanitary district, prepares and records with the Register of Deeds, an agreement to connect to the sanitary district when so determined by the sanitary district.
 - A. A temporary holding tank may be installed as a replacement system when public sewer, approved by the DNR, will be installed to serve the property within 2 years of the date of State sanitary permit issuance. The following items shall accompany a State sanitary permit application for the installation of a temporary holding tank:
 - 1. A written statement from the municipality or sanitary district, verifying the date that public sewer will be installed and available to serve the property;
 - 2. A written statement from the DNR, verifying approval of the public sewer;

3. An affidavit from the property owner agreeing to connect to public sewer when it becomes available and to abandon the temporary holding tank(s) upon connection.
- (2) Where a property is located within a sewer service area, and the nearest sanitary district(s) cannot provide public sewer in a cost effective manner at this time, a State sanitary permit for a POWTS may be issued provided the property owner, prepares and records with the Register of Deeds, an agreement to connect to public sewer when so determined by the nearest sanitary district(s).
 - (3) If a failure determination is made in an area where public sewer, approved by the DNR, will be installed within 2 years of the failure determination, an owner may convert an existing septic tank to a temporary holding tank under the following conditions:
 - A. The existing tank is modified and inspected by the County.
 - B. A high water alarm, above ground service riser and locking device are installed.
 - C. A servicing contract is secured with a licensed pumper.
 - D. A holding tank agreement is recorded.
 - E. Additional tank capacity is added by State sanitary permit if required.
 - F. An all weather access is provided by the owner.
 - G. The owner signs and records an affidavit agreeing to connect to public sewer when it becomes available and to abandon the temporary holding tank(s) upon connection.

Sec. 74-44. Discharges Prohibited.

- (a) Every POWTS shall be designed, located, and constructed to prevent any discharge of sewage or partially treated sewage into drain tiles, onto the ground surface, into the structure served, into the surface waters of the State, including the groundwater of the State including zones of seasonal saturation or zones of bedrock.
- (b) The discharge of wash water (e.g. laundry water) to the ground surface, road ditch, sump-pump, cesspool, or any other place other than a septic tank or holding tank is prohibited.
- (c) The discharge of sewage or partially-treated sewage from a septic tank or holding tank to the ground surface, road ditch, cesspool or any waters of the State by any means is prohibited.

Sec. 74-45.—74-47. Reserved.

Sec. 74-48. Violations and Penalties.

- (a) It is unlawful to violate any provision of this Ordinance or fail to comply with any of its requirements.
- (b) It is unlawful to alter, construct, repair or cause work to be performed on a POWTS in violation of any permit issued under the provisions of this Ordinance.

- (c) It is unlawful to interfere, resist or obstruct the Code Administrator or any other employee of the County in the reasonable and proper discharge of their duties authorized under the provision of this Ordinance.
- (d) A person who violates a provision of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$500 for each offense, together with the costs of prosecution. A person who is in default of payment of a forfeiture and costs shall be imprisoned in the County jail until such forfeiture and costs are paid but not to exceed 30 days for any given violation.
- (e) Every violation of this Ordinance is deemed a public nuisance and the creation and/or continuation thereof may be abated by action at the suit of the County, the State or any citizen thereof.
- (f) Each day a violation continues to exist shall constitute a separate offense.
- (g) The County may, pursuant to Chapter 1, Sec. 1-8, *County Uniform Citation*, of this Code of Ordinances, issue a citation to the offender. Issuance of a citation and payment of the required forfeiture does not negate the requirement of compliance with this Ordinance.
- (h) The following minimum forfeitures are hereby established:
 - (1) Failure to file a POWTS inspection/pumping report after notice of maintenance requirement – \$200.00 plus costs.
 - A. A citation shall be dismissed if a completed inspection/pumping report is filed with the County at least 7 days prior to the scheduled court date.
 - (2) Failure to properly maintain holding tank(s) as determined by semi-annual and annual pumping reports - \$500.00 plus costs.
 - (3) Discharging wash water to any location other than a septic tank or holding tank - \$200.00 plus costs.
 - (4) Discharging the contents of a septic tank or holding tank to the ground surface, road ditch, or any waters of the State – \$500.00 plus costs.
 - (5) All other violations of this Ordinance - \$200.00 plus costs.

Sec. 74-49. Administration, Powers and Duties.

- (a) The County shall have the duty and power to enforce the provisions of this Ordinance and all other ordinances, laws, and orders of Calumet County and the State of Wisconsin which relate to the construction, installation, and maintenance of a POWTS.
- (b) In the administration of this Ordinance, the County shall have the following duties and powers:
 - (1) Appoint a Code Administrator(s) to enforce the provisions of this Ordinance.
 - (2) Review certified soil tester reports and verify the reports at the proposed site, if necessary.

- (3) Approve and disapprove applications for sanitary permits and assist applicants in preparing an approvable application.
- (4) Record all permits issued, inspections made, work approved, and other official actions.
- (5) Inspect all POWTS after construction but before backfill, no later than the end of the next workday, excluding Saturdays, Sundays or holidays, after receiving notice from the plumber in charge.
- (6) Inspect or require an evaluation of an existing POWTS, to determine compliance with this Ordinance, Wis. Stats. and the Wis. Admin. Code.
- (7) Order any person owning, using, operating, or installing a POWTS to modify it, repair it or place it in a safe or sanitary condition if the County finds such system to be in a defective, unsafe or unsanitary condition.
- (8) Condemn and prohibit the use of any POWTS which the County finds so constructed, operated or maintained as to be a menace or direct hazard to the health of the users, neighbors or community.
- (9) Investigate all violations of this Ordinance, applicable sections of the Wis. Admin. Code and the Wis. Stats., and, issue orders to abate the violations and submit orders to the Corporation Counsel for enforcement.
- (10) Issue citations for violations of this Ordinance pursuant to Chapter 1, Sec. 1-8, *County Uniform Citation*, of this Code of Ordinances.
- (11) Have access to any premises during reasonable hours, or upon issuance of a special inspection warrant in accordance with the Wis. Stats., for inspecting POWTS or investigating any violations of this Ordinance. Application for a sanitary permit is considered for the purposes of this Ordinance as the owner's consent to enter the premises.
- (12) Request assistance and cooperation from the Calumet County Health and Human Services Department when necessary in the management of all POWTS.
- (13) Apply for and distribute grants obtained through the Wisconsin Fund Grant Program.
- (14) Perform other duties regarding POWTS as considered appropriate by the County or as required by the Department.

Sec. 74-50. Appeals and Variances.

Any person who alleges that there is an error in any order, requirement, or decision made in the enforcement of this Ordinance may appeal to the Calumet County Circuit Court. Any appeal shall be made within 30 days of the date of that administrative action.

Any person who wants a variance from the terms of this Ordinance for any provision which is more restrictive than the minimum standards required by the Department may seek a variance from the Calumet County Board of Adjustment pursuant to the Zoning Code (Chapter 82) of this Code of Ordinances. Any requests for variance shall be made on forms furnished by the County within 30 days

of the date of the administrative determination from which the person seeks the variance. Other substantiating evidence will be accepted. Variances from the provisions required by the Department shall not be allowed.

Sec. 74-51. Amendments.

The County Board may alter, supplement, amend or change any or all of this Ordinance in accordance with the procedures provided in Wis. Stats. 59.69(5), as amended. All amendments shall be made by the County Board upon recommendation of and after public hearing by the Calumet County Planning, Zoning, and Farmland Preservation Committee.

(Ordinance 2017-10, December 19, 2017)

Chapter 75

PRIVATE WATER SYSTEMS

Article I. In General

Sec. 75-55. Title.
Sec. 75-56. Purpose.
Sec. 75-57. Intent.
Sec. 75-58. Authority and Adoption.
Sec. 75-59. Jurisdiction of Article.
Sec. 75-60. Definitions.
Sec. 75-61. Reserved.

Article II. Well and Drillhole Abandonment

Sec. 75-62. County responsibilities for Level 5 - Well and Drill Hole Abandonment.
Sec. 75-63. Enforcement of State and Local Laws.
Sec. 75-64. Administrator.
Sec. 75-65. Violations.
Sec. 75-66. Administrator Directives and Orders.
Sec. 75-67. Enforcement actions.
Sec. 75-68 – 75-69. Reserved.

Article III. Land Division

Sec. 75-70. Land Division Well Test.

Article I. In General

Sec. 75-55. Title.

Article I of this ordinance shall also be known as the “Calumet County Private Water Systems Ordinance.” Article II of this ordinance shall be also known as the “Calumet County Well and Drillhole Abandonment Ordinance.” Article III of this ordinance shall also be known as the “Calumet County Land Division Well Test.” For purposes of reference herein, both shall be referred to in the applicable articles as “this Ordinance.”

Sec. 75-56. Purpose.

The purpose of this Ordinance is to protect the drinking water and groundwater resources of the County through regulating well and drillhole abandonment.

Sec. 75-57. Intent.

The intent of this Ordinance is to regulate the abandonment of all well and drillholes and the administration and enforcement of this Ordinance.

Sec. 75-58. Authority and adoption.

- (a) This Ordinance is adopted under the authority granted to the County by Wis. Stats. § 59.70 and Ch. NR 845, Wis. Admin. Code.
- (b) This Ordinance is subject to the provisions of Wis. Stats. §§ 59.70(6) and 280.21, and all rules promulgated thereunder regulating private water systems.
- (c) This Ordinance may not be more lenient nor more stringent than the rules promulgated pursuant to Wis. Stats. Ch. 280.
- (d) Failure to comply with any of the provisions of this Ordinance, Wisconsin Statutes or Administrative Rules, shall constitute a violation of this Ordinance, actionable according to the penalties provided in this Ordinance.
- (e) This Ordinance applies to the entire County and includes cities, towns, villages and sanitary districts in the County.
(Ord. No. 1994-8, § 2, 6-21-1994; Ord. No. 2013-6 §§14, 29, 38, 41, 11-4-13)

Sec. 75-59. Jurisdiction of article.

The provisions of this Ordinance shall apply to all private water systems within the County as they relate to well and drillhole abandonment, and the testing of wells when a land division is to occur.
(Ord. No. 1994-8, § 3, 6-21-1994)

Sec. 75-60. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In the event a term is not defined, the meaning shall be as defined in Wis. Admin. Code NR 845, and, if not therein

defined, the meaning shall be per Webster's Unabridged Third International Dictionary or a dictionary based on it.

Administrator means staff of the County Land & Water Conservation Department designated to administer Ch. NR 812, Wis. Admin. Code pertinent to well and drillhole abandonment in the County as authorized by the Department.

Central Office means the bureau of drinking water and groundwater supply, located in Madison, Wisconsin, which functions as the coordinating authority for the statewide water supply program.

Community Water System means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Any water system serving 7 or more homes, 10 or more mobile homes, 10 or more apartment units or 10 or more condominium units, shall be considered a community water system unless information is provided by the owners indicating that 25 year-round residents will not be served. (See Wis. Admin. Code NR § 811.03(2)).

County Office Staff means County office personnel trained to answer general well abandonment and drill hole abandonment questions.

Delegation Level means the program level, as set forth in Wisconsin Administrative Code Ch. NR 845.05, at which a County is authorized to administer and enforce Ch. NR 812 Wis. Admin. Code.

Department means the Wisconsin Department of Natural Resources.

District Office means the Department office located in Green Bay, Wisconsin.

Existing Installations means as designated in Wis. Admin. Code NR Ch. 812.

Health Hazard means a condition which constitutes:

- (1) A violation of Wis. Admin. Code NR ch. 812, regarding the installation, construction, operation or maintenance of a private well; or
- (2) Confirmed bacteriologically-unsafe well water quality.
- (3) A threat to safety or ground water quality.

Noncommunity Water System means a public water supply system that is not a community water system and serves at least 25 persons per day at least 60 days each year. A noncommunity water system commonly serves a transient population rather than permanent year-round residents. This may include, but is not limited to, an individual well serving a restaurant, industry, service station, tavern, motel, campground or church.

Noncomplying Well or Pump Installation means a private water system not in compliance with all provisions of Wis. Admin. Code NR Ch. 812, in effect at the time the well was constructed or the pump was installed.

Person means an individual, corporation, company, association, cooperative, trust, institution, partnership, state, public utility, sanitary district, municipality or federal agency.

Personal Interest means having a financial interest in a property or being related by marriage or birth to a person having a financial interest in a property.

Primary Drinking Water Standards mean those maximum contaminant levels which represent minimum public health standards set forth in Ch. NR 809, Wis. Admin. Code.

Private Water System Ordinance means a County ordinance, approved by the Department, regulating private water systems at the County's authorized delegation level.

Private Well means, for the purpose of this article, any drilled, driven point, dug, bored or jetted well constructed for the purpose of obtaining groundwater for potable use, including wells constructed in special well casing depth areas and non-community wells. It does not include springs or private or public wells that require written plan approval from the department.

Public Water System means a system for the provision to the public of piped water for human consumption, if a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system is either a "community water system" or a "non-community water system." A system includes: (a) Any collection, treatment, storage and distribution facilities under control of the operator of a system and used primarily in connection with a system, and (b) Any collection or pretreatment storage facilities not under such control of the operator of a public water system which are used primarily in connection with a system." (See Wis. Admin. Code NR 845.04(25)).

Variance means an approval issued by the department under Wis. Admin. Code NR ch. 812, allowing a private water system to vary from Wis. Admin. Code NR ch. 812 requirements if department approved conditions are met.

Water system means the water collection, storage, treatment facilities and all structures, piping and appurtenances by which water is provided.

Well means an excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for human consumption. (See Wis. Stat. §280.01(6)).

Well construction means the procedures, methods, materials and equipment used during the construction or reconstruction of a private well.
(Ord. No. 1994-8, § 9, 6-21-1994)

Cross References: Definitions generally, § 1-2.

Secs. 75-61. Reserved.

(History: Ord. No. 2010-1, April 20, 2010.)

ARTICLE II.

WELL AND DRILLHOLE ABANDONMENT*

* **Cross References:** Administration, ch. 2.

Sec. 75-62. County Responsibilities for Level 5 - Well and Drillhole Abandonment.

Calumet County, as a level 5 delegation County, will require the abandonment (filling and sealing) of

wells and drillholes if any of the following conditions are met, unless the Department approves the continued use of the well or drillhole:

- (1) The well water is contaminated with biological agents, bacteriological, viral or parasitic, and 3 attempts at batch chlorination fail to eliminate the problem.
- (2) The well or drillhole poses a hazard to health or safety.
- (3) The well or drillhole construction or well location does not comply with the minimum standards of Ch. NR 812, Wis. Admin. Code, or
- (4) The well or drillhole has been taken out of service or had not been used for 3 or more years and is not needed by the owner in the immediate future as a source of water for human consumption, sanitary purpose, commercial use or for stock watering. As an alternative, the owner may temporarily abandon the well according to Ch. NR 812.26(4), Wis. Admin. Code.

The County may also require the abandonment of a well, as prescribed in Ch. NR 845, Wis. Admin. Code, for water exceeding a primary drinking water standard enumerated in Ch. NR 809, Wis. Admin. Code or a state health advisory limit issued by the Department, after consultation with and approval by the Department.

(Ord. No. 1994-8, § 10, 6-21-1994)

Sec. 75-63. Enforcement of state and local laws.

The County shall cooperate with all other governmental units and agencies in the enforcement of all state and local laws and regulations pertaining to matters in this Ordinance.

(Ord. No. 1994-8, § 11, 6-21-1994)

Sec. 75-64. Administrator.

(a) The Land & Water Conservation Department Director or his designee shall act as the Administrator and is assigned the duties of administering the private water system program in accordance with Department rules.

(b) The Administrator shall have the power and duty to enforce the provisions of this article and all other ordinances, laws and orders of the County and of the State which relate to the abandonment of all private water systems within the County at the County's authorized delegation level.

- (1) *Qualifications of Administrator.* The Administrator shall be informed on the principles and practices of well and drillhole abandonment.
- (2) *Powers.* The Administrator shall have all the powers necessary to enforce the provisions of this Ordinance commensurate with the level of the County's delegated authority, including the following:
 - a. In the performance of these duties, the Administrator or his designee may enter any building or property upon presentation of the proper credential, during reasonable hours for the purpose of inspecting the private water system for purposes pertinent to well abandonment and drillhole abandonment. No person may interfere with the Administrator or an authorized assistant in the performance of their duties. Any person interfering shall be in violation of this article and subject to the penalty as provided by this Ordinance. If consent to enter a property for inspection purposes is denied, the Administrator may obtain a special

inspection warrant under Wis. Stats. § 66.0119(2).

- b. Order any person owning, operating or installing a private water system to abandon, repair or place the private water system in a complying safe or sanitary condition if the system is found to be abandoned, or if not in compliance with Wis. Admin. Code NR Ch. 812.26, or County ordinance.

(3) *Duties.* It shall be the duty of the Administrator to enforce the provisions of this Ordinance and perform the following duties commensurate with the level of the County's delegated authority:

- a. Provide the Department with copies of all abandonment inspection forms and correspondence as required by Ch. NR 845, Wis. Admin. Code.
- b. Investigate and record all private water system complaints pertinent to well and drillhole abandonment.
- c. Investigate cases of noncompliance with this Ordinance, Wis. Admin. Code NR Ch. 812, and Ch. 280, Wis. Stats., issue orders to abate the noncompliance and submit violations to the District Attorney or Corporation Counsel for enforcement.
- d. Refer complaints and cases of noncompliance believed to be or known to be beyond the scope of the County's delegation level to the Department.
- e. Cooperate with all other government units and agencies in the enforcement of all state and local laws and regulations of matters related to this Ordinance.
- f. Assist the Department as specified in Ch. NR 845, Wis. Admin. Code.
- g. Refer variance requests and actions which require Department approval to the Department.
- h. Advise owners not to drink or use water from private water systems under conditions specified in the Wisconsin Administrative Code.

(Ord. No. 1994-8, § 12, 6-21-1994)

Cross References: Officers and employees, § 2-61 et seq.

Sec. 75-65. Violations.

The Administrator shall investigate violations of this Ordinance and Wis. Admin. Code NR Ch. 812, relating to the County's authorized delegation levels, issue orders to abate the violations and submit orders to the District Attorney or Corporation Counsel for enforcement.

Each day that a violation remains uncorrected after receiving notice from the Administrator shall constitute a separate violation of this Ordinance.

(Ord. No. 1994-8, § 14, 6-21-1994)

Sec. 75-66. Administrator directives and orders.

(a) *Field directive.* The Administrator, after investigation and a determination that a violation exists, may issue a written field directive. This field directive may consist of a hand written note on an

inspection report, or similar paper, identifying the violation that has occurred and assigning a date by which the violation must be corrected, and shall include the inspector's telephone number and office address.

(b) *Formal directive.* A formal letter may be issued, which states the violation, the ordinance (administrative rule or statutory) section violated, the date the violation was noted, the inspector who noted the violation and assigns a date by which the correction must be made.

(c) *Correction order.* Upon discovery and after documentation of a violation, the Administrator may issue a corrective order. The Administrator may use a stepped enforcement procedure by issuing a directive before an order or may proceed directly to issuing a correction order. An order shall include the following:

- (1) The location of the violation (site).
- (2) The name of the parties involved, the owner, the permittee, the well constructor or the pump installer.
- (3) The section of the ordinance and Wisconsin Administrative Code section(s) violated.
- (4) The date of inspection of the site where the violation occurred.
- (5) The name of the person who conducted the inspection which revealed the violation.
- (6) The date by which the correction(s) must be completed.
- (7) The name of the person who must be contacted regarding subsequent inspection of the site.
- (8) A statement that, if the order is not complied with, the Administrator will refer the violation to the District Attorney or Corporation Counsel with a recommendation to seek injunctive relief or forfeitures or both from the Calumet County Circuit Court. Orders must be signed by the Administrator.
- (9) Orders shall be served on the property owner by certified mail. Where appropriate, the Administrator may request the Calumet County Sheriff to serve any particular order.
- (10) The Administrator shall report all orders that have not been complied with to the District Attorney or Corporation Counsel for enforcement.

(Ord. No. 1994-8, § 15, 6-21-1994)

Sec. 75-67. Enforcement actions.

(a) An enforcement action may be brought by the District Attorney or Corporation Counsel against a person for any of the following violations:

- (1) Failure to comply with any provision of this Ordinance;
- (2) Failure to comply with any directive or order issued by the Administrator;
- (3) Resisting, obstructing or interfering with the Administrator's or his designee's actions

undertaken pursuant to this Ordinance.

- (b) The District Attorney or Corporation Counsel may, for any violation, seek:
- (1) Injunctive relief,
 - (2) Forfeitures of not less than \$50.00 but not more than \$200.00,
 - (3) *Other remedies, Cumulative.* The County shall have such other remedies as are and as may be from time-to-time provided by Wisconsin law for violations of this Ordinance and all remedies available to the County shall be cumulative, and the County may exercise them in any order.
 - (4) The costs of prosecution and all other fees allowed by law or the courts.
 - (5) Any person who has the ability to pay any forfeiture entered against him under this Ordinance but refuses to do so may be confined in the County jail until such forfeiture is paid, but in no event to exceed 30 days. In determining whether an individual has the ability to pay a forfeiture imposed under this Ordinance, all items of income and all assets may be considered regardless of whether or not the income or assets are subject to garnishment, lien or attachment by judgment creditors under law.

(Ord. No. 1994-8, § 16, 6-21-1994)

Sec. 75-68.—75-69. Reserved.

ARTICLE III.

LAND DIVISION

Sec. 75-70. Land Division Well Test.

All private well systems, which are the subject of a land division shall comply with the requirements of Sec. 62-18 of the Calumet County Code of Ordinances, *Testing of Existing Wells*.

(Ord. No. 2010-03, June 15, 2010; Ord. No. 2017-12, December 19, 2017)

RESERVED

Chapter 78

WATERWAYS*

* **Cross References:** Buildings and building regulations, ch. 10; environment, ch. 18; floods, ch. 26; parks and recreation, ch. 46; harbor and water regulations, § 46-6; shoreland-wetland, ch. 50; streets, sidewalks and other public places, ch. 58; subdivisions, ch. 62; zoning, ch. 82.

Article I. In General

Sec. 78-1. State watercraft vehicle forfeiture laws.

Sec. 78-2. Penalty for violation of chapter.

Secs. 78-3--78-30. Reserved.

ARTICLE I.

IN GENERAL

Sec. 78-1. State watercraft vehicle forfeiture laws.

This chapter is enacted pursuant to the authority granted in Wis. Stats. § 30.77. Except as otherwise specifically provided in this chapter, all provisions of Wis. Stats. §§ 30.50--30.80, and as hereafter amended, describing and defining regulations with respect to the use of watercraft vehicles in the state, for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, are adopted and by reference are made part of this chapter as if fully set forth in this section. Any act required to be performed or prohibited by a statute incorporated in this section by reference is required or prohibited by this chapter.

(Ord. No. 2000-02, § 1, 4-18-2000)

Sec. 78-2. Penalty for violation of chapter.

The penalty for violation of any provision of this chapter shall be a forfeiture as set forth in section 1-8, together with the costs of prosecution.

(Ord. No. 2000-02, § 2, 4-18-2000)

Secs. 78-3--78-30. Reserved.

Chapter 79

WIND ENERGY SYSTEMS

Article I. Authorization, Purpose, and Definitions

- Sec. 79-1. Statutory Authorization.**
- Sec. 79-2. Purpose.**
- Sec. 79-3. Rules of Construction and Definitions.**
- Sec. 79-4. Specific Words and Phrases.**
- Sec. 79-5. Non-Conforming Legal Structures.**
- Sec. 79-6. Penalties.**
- Sec. 79-7 -- Sec. 79-14. Reserved.**

Article II. Applications For and Review of Wind Energy Systems

- Sec. 79-15. Application Required.**
- Sec. 79-16. Notice Requirements.**
- Sec. 79-17. Information Required on Application.**
- Sec. 79-18. Application Completeness.**
- Sec. 79-19. Review of a Wind Energy System Application.**
- Sec. 79-20. Modifications to Approved Wind Energy Systems.**
- Sec. 79-21. Monitoring Compliance.**
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Article III. Standards For Wind Energy Systems

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ARTICLE I.

AUTHORIZATION, PURPOSE, AND DEFINITIONS

Sec. 79-1. Statutory Authorization.

This Chapter is enacted pursuant to Wis. Stat. § 66.0401.

Sec. 79-2. Purpose.

The purpose of this Chapter is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in Calumet County, subject to reasonable restrictions that will preserve or protect the public health and safety and that do not significantly increase the cost of the Wind Energy Systems or significantly decrease their efficiency, while allowing for renewable energy sources to be present within Calumet County.

The intent of this Chapter is to only place restrictions, either directly or in effect, on the installation or use of Wind Energy Systems that are consistent with and are no more restrictive than those allowed pursuant to Wis. Stat. § 66.0401.

Sec. 79-3. Rules of Construction and Definitions.

(a) The definitions and rules of construction of this Chapter shall be as set forth in Sec. 1-2 of the Calumet County Code of Ordinances and as set forth in this Chapter unless such definitions or rules of construction are inconsistent with the manifest intent of the County Board or as required by the statutes and administrative code of the State of Wisconsin.

(b) Words used in the present tense include the future, the singular number includes the plural number and the plural number includes the singular number, the word "building" includes the word "structure," and any words not herein defined shall be presumed to be interpreted by their ordinary and customary dictionary definitions.

(c) All notice to the County called for herein shall be served upon the County Clerk with a copy to the Land & Water Conservation Office.

Sec. 79-4. Specific Words and Phrases.

Code Administrator. A member of the Calumet County Land & Water Conservation Office staff authorized by the County Board by enactment of this Chapter to perform the tasks designated herein.

Commercial Communications. Includes communications used by government and military entities for emergency purposes, licensed amateur radio service, and non-emergency communications used by agricultural, business, government, and military entities, including aviation radar, commercial mobile radio service, fixed wireless service, global positioning, line-of-sight, microwave, personal communications service, weather radar, and wireless internet service.

Commission. The Wisconsin Public Service Commission.

Committee. The Calumet County Planning, Zoning, Land and Water Conservation Committee.

County. Calumet County, Wisconsin.

Decommissioning. Removal of all of the following:

- (a) The above ground portion of a Wind Energy System, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.
- (b) All below ground facilities, except the following:
 - (1) Underground collector circuit facilities; and
 - (2) Those portions of concrete structures 4 feet or more below grade.

DNR. The Wisconsin Department of Natural Resources.

FAA. The Federal Aviation Administration.

Maximum Blade Tip Height. The nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specifications, "maximum blade tip height" means the actual hub height plus the blade length.

MET Tower. A meteorological tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Nameplate Capacity. The nominal generating capacity of a Wind Energy System, as listed in the wind turbine specifications provided by the wind turbine manufacturer.

Nonparticipating Property. Real property that is not a Participating Property.

Nonparticipating Residence. A residence located on a Nonparticipating Property.

Occupied Community Building. A school, church, or similar place of worship, daycare facility, or public library.

Owner.

- (a) A person with a direct ownership interest in a Wind Energy System, regardless of whether the person was involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of a Wind Energy System.
- (b) At the time a Wind Energy System is being developed, a person who is acting as a Wind Energy System developer by acquiring the necessary rights, permits, and approvals for or by planning for the construction and operation of a Wind Energy System, regardless of whether the person will own or operate the Wind Energy System.

Participating Property. Any of the following:

- (a) A Wind Energy System Host Property.
- (b) Real property that is the subject of an agreement that does all of the following:
 - (1) Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a Wind Energy System is constructed on the property; and

- (2) Specifies in writing any waiver of a requirement or right under this Chapter and that the landowner's acceptance of payment establishes the landowner's property as a Participating Property.

Participating Residence. A residence located on a Participating Property.

Person. An individual, corporation, limited liability company, partnership, or association.

Personal Communications. Includes wireless telecommunications, personal communications service, radio, television, wireless internet service, and other systems used for personal use purposes.

Residence. An occupied primary or secondary personal residence including a manufactured home as defined in Wis. Stat. § 101.91(2), a hospital, community-based residential facility, residential care apartment complex or similar facility, or a nursing home. "Residence" includes a temporarily unoccupied primary or secondary personal residence. "Residence" does not include any of the following:

- (a) A recreational vehicle as defined in Wis. Stat. § 340.01(48r), notwithstanding the length of the vehicle;
- (b) A camping trailer as defined in Wis. Stat. § 340.01(6m); or
- (c) A permanently abandoned personal residence.

Sensitive Receptor. Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of seated assemblage, businesses. Any parcel of land having a valid building or sanitary permit on file on the date of the issue of the Wind Energy Siting Permit shall be treated the same as any existing sensitive receptor.

Shadow Flicker. A pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.

Tower. The monopole, freestanding, or guyed structure that supports a wind turbine.

Wind Access Easement. A written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.

Wind Energy Siting Permit. A construction and operating permit granted by the County in accordance with the provisions of this Chapter, Wis. Stats. § 66.0401, or any successor statutes or regulations.

Wind Energy System. Has the meaning given in Wis. Stat. § 66.0403(1)(m) and is used to convert wind energy to electrical energy.

Wind Energy System Easement. A written document that creates a legal interest in real property that permits an owner to place, construct, or operate a wind turbine or other Wind Energy System facility on the property.

Wind Energy System Emergency. A condition or situation at a Wind Energy System that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to Wind Energy System facilities.

Wind Energy System Facility. Any component of a Wind Energy System, such as a wind turbine, collector circuit, access road, electric system interconnection facility, or operation and maintenance facility.

Wind Energy System Host Property. Real property on which any portion of a Wind Energy System is located.

Wind Energy System Lease. A written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction, or operation of a wind turbine or other Wind Energy System facility on a landowner's property.

Wind Energy System - Small: A Wind Energy System that has:

- (a) a total nameplate capacity of 300 kilowatts or less; and
- (b) consists of individual wind turbines that have an installed nameplate capacity of 100 kilowatts or less.

Sec. 79-5. Non-Conforming Legal Structures.

- (a) Wind Energy Systems that were erected before the effective date of this Chapter and that are in continuous use shall be considered Non-Conforming Legal Structures and need not comply with the provisions contained herein.
- (b) A Wind Energy System that does not generate energy for a continuous 360-day period shall lose its "Non-Conforming Legal Structure" status and must comply with the provisions of this Chapter before it recommences production of energy.
- (c) No person shall alter or modify a pre-existing Non-Conforming Legal Structure without bringing the entire structure into compliance with this Chapter. This provision does not apply to routine maintenance and ordinary repairs that do not exceed 50% of the structure's value at the time of the maintenance or repair.

Sec. 79-6. Penalties.

Any violation of this Chapter, a permit issued under this Chapter, or a decommissioning plan required under this Chapter by any person may result in a forfeiture in an amount not less than \$100 nor more than \$1,000 for each violation, plus taxable costs of prosecution. Each day of continued violation is a separate offense.

Sec. 79-7 -- Sec. 79-14. Reserved.

ARTICLE II.

APPLICATIONS FOR AND REVIEW OF WIND ENERGY SYSTEMS

Sec. 79-15. Application Required.

Any person who wishes to erect a Wind Energy System must submit an application for a Wind Energy Siting Permit with the Code Administrator. A separate permit shall be secured for a MET Tower.

Sec. 79-16. Notice Requirements.

- (a) At least 90 days before an owner files an application to construct a Wind Energy System, an Owner shall use commercially reasonable methods to provide notice of the System to all of the following:

- (1) All landowners within one (1) mile of a planned wind turbine host property;
 - (2) Any political subdivisions within which the System may be located;
 - (3) Emergency first responders and air ambulance service providers serving a political subdivision in which the System may be located;
 - (4) The Wisconsin Department of Transportation;
 - (5) The Commission;
 - (6) The DNR;
 - (7) The Wisconsin Department of Agriculture, Trade, and Consumer Protection; and
 - (8) The Office of the Deputy Undersecretary of the U.S. Department of Defense.
- (b) The notice provided under (a) above shall, at a minimum, include the following:
- (1) A complete description of the Wind Energy System, including the number and size of the planned wind turbines;
 - (2) A map showing the planned location of all Wind Energy System facilities;
 - (3) Contact information for the owner;
 - (4) A list of all potential permits or approvals the owner anticipates may be necessary for construction of the Wind Energy System; and
 - (5) Whether the owner is requesting a joint application review process and the name of each political subdivision that may participate in the joint review process.

Sec. 79-17. Information Required on Application.

- (a) All permit applications shall be made on forms provided by the Code Administrator and be accompanied by a non-refundable fee as set forth in Sec. 79-65.
- (b) The application shall include:
- (1) A description of the Wind Energy System and maps showing the locations of all proposed wind energy facilities;
 - (2) A technical description of wind turbines and wind turbine sites to be included as part of the Wind Energy System;
 - (3) A timeline and process for constructing the Wind Energy System;
 - (4) Information regarding the anticipated impact of the Wind Energy System on local infrastructure;
 - (5) Information regarding noise anticipated to be attributable to the Wind Energy System;

- (6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System;
 - (7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System;
 - (8) Information regarding the anticipated effects of the Wind Energy System on airports and airspace and demonstrating compliance with the requirements of Sec. 79-30(f), if applicable;
 - (9) Information regarding the anticipated effects of the Wind Energy System on line-of-sight communications, including but not limited to information showing that the Wind Energy System facilities will not be constructed within existing line-of-sight communication paths used by government or military entities to provide services essential to protect public safety, as required by Sec. 79-33(a)(3);
 - (10) A list of all state and federal permits required to construct and operate the Wind Energy System;
 - (11) Information regarding the planned use and modification of roads within the County during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense;
 - (12) A copy of all emergency plans developed in collaboration with appropriate first responders under Sec. 79-30(d)(2), which plans may be filed using confidential filing procedures as necessary; this subsection does not apply to Small Wind Energy Systems;
 - (13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with Sec. 79-62; this subsection does not apply to Small Wind Energy Systems;
 - (14) A representative copy of all notices issued under Sec. 79-16(a), Sec. 79-17(e), and Sec. 79-61(c);
 - (15) A list of the names and addresses of those entities and persons to whom notice was provided pursuant to Sec. 79-16(a);
 - (16) Copies of any Wind Energy System Easements, Wind Access Easements, Wind Energy System Leases, or any waivers obtained along with proof that any such easements have been properly recorded pursuant to Wis. Stat. Ch. 706; and
 - (17) Any other information necessary to understand the construction, operation, or decommissioning of the proposed Wind Energy System.
- (c) Accuracy of Information. The Owner shall ensure that information contained in an application is accurate.
- (d) Duplicate Copies. Twelve (12) hard copies of the application shall be filed. Each copy shall include all worksheets, maps, and other attachments included in the application. In addition, one (1) electronic or digital copy of the application shall be filed.
- (e) Notice To Property Owners And Residents.

- (1) On the same day an Owner files an application for a Wind Energy System, the Owner shall, under Wis. Stat. § 66.0401(4)(a)3, use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any Wind Energy System facility. The notification shall include all of the following:
 - A. A complete description of the Wind Energy System, including the number and size of the wind turbines;
 - B. A map showing the locations of all proposed Wind Energy System facilities;
 - C. The proposed timeline for construction and operation of the Wind Energy System;
 - D. Locations where the application is available for public review; and
 - E. Owner contact information.
- (2) After the County receives an application for a Wind Energy System, the notice required to be published by the County under Wis. Stat. § 66.0401(4)(a)1 shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the County, and the approximate schedule for review of the application by the County. If the application has been determined to be incomplete pursuant to Sec. 79-18, the notice shall state the reason for that determination.

(f) **Public Participation.** The County shall make an application for a Wind Energy System available for public review at a local library and at the offices of the Code Administrator or some other publicly-accessible location. This subsection does not apply to Small Wind Energy Systems.

Sec. 79-18. Application Completeness.

- (a) **Complete Applications.**
 - (1) An application is complete if it meets the filing requirements under Sec. 79-17(b).
 - (2) The Code Administrator shall determine the completeness of an application and shall notify the Owner in writing of the completeness determination no later than 45 days after the date the application is filed. An application is considered filed the date the Owner notifies the Code Administrator in writing that all the application materials have been filed. If the Code Administrator determines that the application is incomplete, the notice provided to the Owner shall state the reasons for the determination.
 - (3) An Owner may file a supplement to an application that the Code Administrator has determined to be incomplete. There is no limit to the number of times that an Owner may re-file an application. For incomplete applications, the Owner shall provide additional information as specified in the notice under par. (2).
 - (4) An additional 45-day completeness review period shall begin the day after the Code Administrator receives responses to all items identified in the notice under par. (2).
 - (5) If the Department does not make a completeness determination within the applicable review period, the application is considered to be complete.

(b) Requests For Additional Information. The Code Administrator may request additional information necessary to understand the Wind Energy System after determining that an application is complete. An Owner shall provide additional information in response to all reasonable requests. An Owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.

Sec. 79-19. Review of a Wind Energy System Application.

(a) Review Process.

- (1) Public Hearing. A public hearing shall be conducted by the Committee after public notice has been given as provided in Sec. 82-119(a)(1), Notice for Public Hearings. At the public hearing, any party may appear in person or by an agent or attorney. The public hearing shall be governed by any formal or informal public hearing procedures adopted by the Committee pursuant to Sec. 82-119(b).
- (2) Written Public Comment. The notice of public hearing required in par. (1) above shall set a deadline for the submission of written public comment prior to the public hearing. Any written public comment received prior to the deadline for such comment shall be considered by the Committee as part of its deliberations with respect to the subject Wind Energy System application.
- (3) Standards for Approval or Denial of Application.
 - A. The Committee may not unreasonably deny an application for a Wind Energy System or impose unreasonable conditions on the issuance of a permit under this Chapter.
 - B. The Committee shall not deny an application or otherwise place any restrictions, either directly or in effect, on any permit issued pursuant to an application that is granted based on standards that are more restrictive than those set forth in this Chapter.
 - C. The Committee shall not deny an application or otherwise place any restrictions, either directly or in effect, on any permit issued pursuant to an application that is granted unless the denial or restriction: (i) serves to preserve or protect the public health or safety, (ii) does not significantly increase the rest of the system or significantly decrease its efficiency, or (iii) allows for an alternative system of comparable cost and efficiency.
 - D. With respect to Wind Energy Systems that are proposed to have a nominal capacity of at least one megawatt, the Committee shall deny an application if the proposed site of the Wind Energy System is in an area primarily designated for residential or commercial development as shown on a map adopted as part of a comprehensive plan adopted pursuant to Wis. Stat. § 66.1001(2)(b) and (f) prior to June 2, 2009 or as part of such a plan updated pursuant to Wis. Stat. § 66.1001(2)(i) after December 31, 2015. Residential and commercial land use designations are labeled Rural Character, Rural Mixed Use/Hamlet, Planned Urban Transition, and Commercial as shown on the Calumet County Year 2025 Comprehensive Plan, Preferred Land Use Maps, adopted May 15, 2007, amended February 19, 2008.
- (4) Deadlines for Approval or Denial. The Committee shall approve or deny an application no later than 90 days after the date on which the County notifies the applicant that the application is complete. The Committee may extend this 90-day period if it authorizes such an extension prior to the expiration of the 90-day period in writing. Such an extension or extensions may be for up to 45 days if the Committee needs additional information to

determine whether to approve or deny the application or for up to 90 days if the applicant makes a material modification to the application or for other good cause specified in writing by the Committee, except in no event shall the total amount of time for all extensions exceed 90 days. If the Committee fails to act on an application within the 90-day period described herein, or such extended period as allowed herein, the application shall be deemed to have been approved.

- (5) If a request is received by the County for joint review of an application, the Land & Water Conservation Director shall possess the authority on behalf of the County to approve or deny said request and to establish a process for conducting the joint review.
- (b) Written Decision.
- (1) The Committee shall issue a written decision to grant or deny an application for a Wind Energy System. The written decision shall include findings of fact supported by evidence in the record. If an application is denied, the decision shall specify the reason(s) for the denial.
 - (2) In addition to any other conditions the Committee imposes under par. (a) above, the Committee shall also make its approval subject to the following conditions:
 - A. Information. The approval shall require information about whether an Owner has consulted with and received any non-binding recommendations for constructing, operating, or decommissioning the Wind Energy System from a state or federal agency, and whether the Owner has incorporated such non-binding recommendations into the design of the Wind Energy System. This subsection does not apply to Small Wind Energy Systems.
 - B. Studies. The approval shall require an Owner to cooperate with any study of the effects of Wind Energy Systems coordinated by a state agency. This subsection does not apply to Small Wind Energy Systems.
 - C. Monetary Compensation. The approval shall require an Owner of a Wind Energy System to offer an agreement that includes annual monetary compensation to the owner of a Nonparticipating Residence if the residence is located within 0.5 mile of a constructed wind turbine site. For one turbine located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$600. For two turbines located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$800. For three or more turbines located within 0.5 mile of a Nonparticipating Residence, the initial annual monetary compensation may not exceed \$1,000. The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 or thereafter, the initial annual amounts shall increase each year by the greater of 2% or the increase in the Consumer Price Index, as described in Wis. Stat. § 196.374(5)(bm)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this Chapter and whether the landowner's acceptance of payment establishes the landowner's property as a Participating Property under this Chapter. This subsection does not apply to Small Wind Energy Systems.
 - D. Permits. The approval shall require the Owner to submit to the County copies of all necessary state and federal permits and approvals.
 - E. Annual Reports. The approval shall require the Owner to file an annual report with the County documenting the operation and maintenance of the Wind Energy System

and its compliance with the conditions set forth in the permit and the requirements of this Chapter during the previous calendar year. The Owner shall provide such a written report to the Code Administrator each year on or before the anniversary of the date on which the permit was issued. This subsection does not apply to Small Wind Energy Systems.

- F. Aerial Spraying. The approval shall require the Owner to offer an agreement that includes monetary compensation to a farm operator farming on a Nonparticipating Property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
1. Substantial evidence of a history, before the Wind Energy System Owner gives notice under Sec. 79-16, of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine; and
 2. A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the Wind Energy System's effect on aerial spraying practices.

This subsection (F) does not apply to Small Wind Energy Systems.

- (3) The Committee shall provide its written decision to the Owner and to the Commission. If the Committee approves an application for a Wind Energy System, it shall provide the Owner with a duplicate original of the decision. The Owner shall record the duplicate original of a decision approving an application with the Calumet County Register of Deeds.

(c) Effect Of Ownership Change On Approval. Approval by the Committee of a Wind Energy System remains in effect if there is a change in the ownership of the Wind Energy System. An Owner shall nonetheless provide timely notice of any change in the ownership of the Wind Energy System to the County.

(d) Recordkeeping.

- (1) The Committee shall keep a complete written record of its decision-making relating to an application for a Wind Energy System.
- (2) If the Committee denies an application, it shall keep the record for at least 7 years following the year in which it issues the decision.
- (3) If the Committee approves an application, it shall keep the record for at least 7 years after the year in which the Wind Energy System is decommissioned, or per the Calumet County Records Retention Schedule, whichever is longer.

(e) Record Contents. The record of a decision shall include all of the following:

- (1) The approved application and all additions or amendments to the application;
- (2) A representative copy of all notices issued under Sec. 79-16, Sec. 79-17(e), and Sec. 79-61(c);
- (3) A copy of any notice or correspondence that the County issues related to the application;

- (4) A record of any public hearing under Sec. 79-19(a) and any other public hearing related to the application. The record may be an electronic recording, a transcript prepared from an electronic recording, or a transcript prepared by a court reporter or stenographer. The record shall include any documents or evidence submitted by hearing participants;
- (5) Copies of any correspondence or evidentiary material that the County considered in relation to the application, including copies of all written public comments filed under Sec. 79-19(a);
- (6) Minutes of any political subdivision, board, council, or committee meetings held to consider or act on the application that are received by the Committee;
- (7) A copy of the written decision under Sec. 79-19(b);
- (8) Other materials that the County prepared to document its decision-making process; and
- (9) A copy of any County ordinance cited in or applicable to the decision.

(f) **Post-Construction Filing Requirement.** Within 90 days of the date a Wind Energy System commences operation, the Owner shall file with the County and the Commission an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities, and current information identifying the Owner of the Wind Energy System. An Owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under Sec. 79-30(a)(8).

Sec. 79-20. Modifications to Approved Wind Energy Systems.

(a) **Material Change.**

- (1) An Owner may not make a material change in the approved design, location, or construction of a Wind Energy System without the prior written approval of the County.
- (2) An Owner shall submit an application for a material change to an approved Wind Energy System to the Land & Water Conservation Department.

(b) **Review Limited.**

- (1) Upon receipt of an application for a material change to a Wind Energy System under par. (a), the County may not reopen the merits of the earlier approval but shall consider only those issues relevant to the proposed change.
- (2) An application for a material change is subject to Sec. 79-15(a), Sec. 79-17(c)-(f), Sec. 79-18, and Sec. 79-19.
- (3) An application for a material change shall contain information necessary to understand the material change.
- (4) The County may hold at least one public hearing to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

Sec. 79-21. Monitoring Compliance.

(a) If the Code Administrator determines the applicant is not meeting all of the conditions of the Wind Energy Siting Permit or this Chapter, the Code Administrator shall issue a letter of non-compliance. The

applicant or Owner shall have 14 days to respond to said non-compliance allegations. If non-compliance is still determined to exist after review of the response by the Code Administrator, the applicant or Owner shall have 30 days to correct the violation(s). Failure to comply within the 30 days may result in a revocation of the Wind Energy Siting Permit as set forth in Sec. 79-60 or a citation being issued as set forth in Chapter 1, Section 1-8 of the Calumet County Code of Ordinances.

(b) The County may require an Owner to pay a reasonable fee for a third-party inspector to monitor and report to the County regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request. This subsection does not apply to Small Wind Energy Systems.

Sec. 79-22 -- 79-29. Reserved.

ARTICLE III.

STANDARDS FOR WIND ENERGY SYSTEMS

Sec. 79-30. Construction and Operation.

(a) Physical Characteristics.

- (1) An Owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An Owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An Owner may attach a safety feature or wind monitoring device to a wind turbine.
- (2) An Owner shall ensure that a wind turbine has a conventional or unobtrusive finish.
- (3) An Owner shall install lighting at a Wind Energy System that complies with standards established by the FAA.
- (4) An Owner shall use shielding and control systems approved by the FAA to reduce visibility of lighting to individuals on the ground.
- (5) An Owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- (6) An Owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- (7) An Owner shall place appropriate warning signage on or at the base of each wind turbine.
- (8) An Owner shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the Owner, and sufficient information to identify the location of the sign within the Wind Energy System. An Owner shall post these signs at every intersection of a Wind Energy System access road with a public road and at each wind turbine location. All such signs shall comply with the requirements of the Calumet County Code of Ordinances, except as those requirements may be in conflict with this Chapter. This subsection does not apply to Small Wind Energy Systems.
- (9) An Owner shall clearly mark guy wires and supports for a Wind Energy System, meteorological tower, or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(b) Electrical Standards.

- (1) An Owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and Wis. Admin. Code § PSC 114 and shall construct, maintain, and operate all Wind Energy System facilities in a manner that complies with the national electrical safety code.
- (2) An Owner shall construct collector circuit facilities for a Wind Energy System underground to the extent practicable. This subsection does not apply to Small Wind Energy Systems.
- (3) An Owner shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the Owner shall ensure that the third-party facilities are promptly removed. This subsection does not apply to Small Wind Energy Systems.

(c) Construction, Operation, and Maintenance Standards.

- (1) An Owner shall construct, operate, repair, maintain, and replace Wind Energy System facilities as needed to keep the Wind Energy System in good repair and operating condition and in a manner that protects individuals from injury.
- (2) Except for the area physically occupied by the Wind Energy System facilities, an Owner shall restore the topography, soils, and vegetation of the project area to original condition after the Wind Energy System commences operation, unless otherwise provided in a contract signed by a landowner whose property is affected by any changes to the topography, soils, and vegetation as a result of the project, considering any modifications needed to comply with DNR requirements. This subsection does not apply to Small Wind Energy Systems.
- (3) An Owner shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation, or decommissioning of the Wind Energy System and shall include turbine host property owners as additional insured persons on the policy. This subsection does not apply to Small Wind Energy Systems.
- (4) An Owner shall minimize soil compaction, topsoil mixing, and damage to drainage systems on agricultural land during the construction or decommissioning of the Wind Energy System. An Owner shall comply with soil compaction requirements to be established by the Code Administrator and approved by the County Board. This subsection does not apply to Small Wind Energy Systems.

(d) Emergency Procedures.

- (1) An Owner shall notify the County and any other affected political subdivision of the occurrence and nature of a Wind Energy System Emergency within 24 hours of the Wind Energy System Emergency.
- (2) An Owner shall establish and maintain a liaison with the County and any other affected political subdivision and with fire, police, and other appropriate first responders serving the Wind Energy System to create effective emergency plans that include all of the following:
 - A. A list of the types of Wind Energy System Emergencies that require notification under par. (1);

- B. Current emergency contact information for first responders and for the Wind Energy System Owner, including names and phone numbers;
- C. Procedures for handling different types of Wind Energy System Emergencies, including written procedures that provide for shutting down the Wind Energy System or a portion of the System as appropriate;
- D. Duties and responsibilities of the Owner and of first responders in the event of a Wind Energy System Emergency; and
- E. An emergency evacuation plan for the area within 0.5 mile of any Wind Energy System facility, including the location of alternate landing zones for emergency services aircraft.

This subsection does not apply to Small Wind Energy Systems.

- (3) The Owner shall review the emergency plan at least annually in collaboration with fire, police, and other appropriate first responders to update and improve the emergency plan as needed. This subsection does not apply to Small Wind Energy Systems.
- (4) The Owner shall distribute current copies of the emergency plan to the County and any other affected political subdivision and fire, police, and other appropriate first responders as identified by the County. This subsection does not apply to Small Wind Energy Systems.
- (5) The Owner shall provide annual training for fire, police, and other appropriate first responders regarding responding to a Wind Energy System Emergency until the Wind Energy System has been decommissioned. This subsection does not apply to Small Wind Energy Systems.
- (6) An Owner of a Wind Energy System shall do all of the following:
 - A. Furnish its operator, supervisors, and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures;
 - B. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective; and
 - C. As soon as possible after the end of a Wind Energy System Emergency, review employee activities to determine whether the procedures were effectively followed.

This subsection does not apply to Small Wind Energy Systems.

(e) Existing Property Uses.

- (1) An Owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on Nonparticipating Property within 0.5 mile of a proposed wind turbine site if the land use or commercial enterprise exists when the Owner gives notice under Sec. 79-16, or if complete publicly available plans for construction are on file with the County or another political subdivision within 30 days of the date the owner gives such notice.

- (2) An Owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use.

(f) Airports and Heliports.

- (1) All Wind Energy Systems near a public use airport or heliport shall comply with existing airport and heliport approach protection provisions enacted pursuant to Wis. Stat. ss. 114.135 and 114.136. If no such airport and heliport approach protection provisions have been enacted pursuant to Wis. Stat. ss. 114.135 and 114.136, then all Wind Energy Systems near a public use airport or heliport shall comply with the FAA obstruction standards for public use airports and heliports set forth in 14 C.F.R. Part 77.
- (2) All Wind Energy Systems near a private heliport at a medical facility used for air ambulance service shall comply with the FAA obstruction standards for public use heliports set forth in 14 C.F.R. Part 77.

Sec. 79-31. Setback Distance and Height Requirements.

- (a) An Owner shall design and construct a Wind Energy System using the wind turbine setback distances shown in Table 1.

Table 1	
Setback Description	Setback Distance
Occupied Community Buildings	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Residences	1.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1,800 feet from the furthest extending blade tip
Public Road Right-of-Way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines – Not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height
Overhead Utility Service Lines – Lines to individual houses or outbuildings	None

- (b) An Owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable. "Permanent foundation" as used herein shall not be construed to include unenclosed appurtenances to the building or residence. With respect to manufactured homes and mobile homes, an Owner shall measure setback distances to the nearest point of the residence itself.

- (c) An Owner shall work with the County, any other affected political subdivision, and owners of Participating and Nonparticipating Properties to site wind turbines to minimize individual hardships.

(d) The owner of a Nonparticipating Residence or Occupied Community Building may waive the applicable wind turbine setback distances in Table 1 for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a Nonparticipating Property may waive the applicable wind turbine setback distance in Table 1 from a nonparticipating property line.

Sec. 79-32. Noise.

(a) Sound and Vibration.

- (1) **Sound Regulations Compliance.** A Wind Energy System shall be considered in violation of the permit unless the applicant demonstrates to the County that the project complies with all sound level limits. Sound levels in excess of the limits established in this ordinance shall be grounds for the Code Administrator to order immediate shut down of all non-compliant Wind Energy Systems.
- (2) **Post Construction Sound and Vibration Measurements.** Within twelve (12) months of the date when the project is fully operational, and within two (2) weeks of the anniversary date of the pre-construction background noise measurements, the owner shall repeat the existing sound and vibration environment measurements taken before the project approval and submit such measurements to the county. Post-construction sound level measurements shall be taken both with all Wind Energy Systems running and with all Wind Energy Systems off. At the discretion of the County the pre-construction background sound levels (L_{90}) can be substituted for the ‘all Wind Energy Systems off’ tests if a random sampling of 10% of the pre-construction study sites shows that background L_{90} conditions have not changed more than +/- 5 dB (A and C). The owner shall furnish a report of the post-construction measurements to the County Board (available for public review) using the same format as used for the pre-construction sound and vibration studies. Post construction noise studies shall be conducted by a firm chosen by the County. Costs of these studies are to be reimbursed by the Permittee.
- (3) **Audible Sound Standard.** The audible sound emitted by the Wind Energy System operations shall not be greater than 5 dBA above the background noise level (L_{90}) for the quietest period of the day measured during the pre-build noise study. Procedures are provided in Sec. 79-86, the Appendix. All measurements must be taken using procedures meeting American National Standard Institute Standards (ANSI) including: ANSI S12.18-1994 (R 2004), American National Standard Procedures for Outdoor Measurement of Sound Pressure Level, and ANSI S12.9-Parts 1-5:

Part 1: American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound.

Part 2: Measurement of Long-Term, Wide-Area Sound.

Part 3: Short-Term Measurements with an Observer Present.

Part 4: Noise Assessment and Prediction of Long-Term Community Response.

Part 5: Sound Level Descriptors for Determination of Compatible Land Use. Measurements must be taken with qualified acoustical testing instruments meeting ANSI Type 1 standards, and Class 1 filters. The windscreen recommended by the instrument’s manufacturer must be used and measurements conducted only when wind speeds are less than 10 mph at the microphone. The microphone must be located at a height of 1.2 to 1.5 meters from the ground.

- (4) Low Frequency Sound or Infrasound. No low frequency sound or infrasound from wind energy system operations shall be created which causes the sound pressure level both within the project boundary at any sensitive receptor and within a one-mile radius beyond the project boundary to exceed the following limits:

Band No.	1/3 Octave Band Center Frequency (Hz)	Limits for 1/3 Octave Bands	Limits for 1/1 Octave Bands
1	1.25 and below	65	
2	1.6	65	
3	2	65	70
4	2.5	65	
5	3.15	65	
6	4	65	70
7	5	65	
8	6.3	65	
9	8	65	70
10	10	65	
11	12.5	61	
12	16	61	65
13	20	61	
14	25	60	
15	31.5	58	63
16	40	58	
17	50	58	
18	63	55	61
19	80	53	
20	100	52	
21	125	50	55

- (5) Measurements. Measurements must be conducted in accordance with the ANSI standards and conditions referenced in subsection (3) above and the Appendix.
- (6) Pure Tone Penalty. In the event audible noise due to the Wind Energy System operations contains a steady pure tone, such as a whine, screech, or hum, the standards for Audible Sound shall be reduced by five (5) dB(A). A pure tone is defined to exist when: the one-third octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels on the two (2) contiguous one-third octave bands by five (5) dB(A) for center frequencies of 500 Hz and above, and eight (8) dB(A) for center frequencies between 160 and 400 Hz, and by fifteen (15) dB(A) for center frequencies less than or equal to 125 Hz.
- (7) Repetitive, Impulsive Sound Penalty. In the event the audible noise, due to the Wind Energy System operations, contain repetitive impulsive sounds the permitted sound pressure level for the Audible Sound, in subsection (3) above, shall be reduced by five (5) dB.
- (8) Pure Tone and Repetitive, Impulsive Tone Penalty. In the event the audible noise, due to the Wind Energy System operations, contains both a pure tone and repetitive impulsive sounds,

the standards for Audible Noise, in subsection (3) above, shall be reduced by a total of seven (7) dB.

- (9) Operations – Low Frequency Noise. A Wind Energy System that emits sound (or causes structural or human body vibration) with strong low-frequency content, where the time-average C-weighted sound level exceeds the A-weighted sound level, by at least 20 dB when measured inside a structure, and adversely affects the subjective habitability or use of any existing dwelling unit, hospital, school, library, nursing home, or other occupied community building, the Wind Energy System shall be deemed unsafe and shall be shut down immediately. Exceedances of any of the limits of the Table in this Section shall also be considered proof the Wind Energy System is unsafe and shall be shut down immediately.

Sec. 79-33. Signal Interference.

(a) Planning.

- (1) The signal interference requirements in this section apply to commercial communications and personal communications in use when the Wind Energy System begins operation.
- (2) A Owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.
- (3) An Owner may not construct Wind Energy System facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. As used herein, a line-of-sight communication path shall include the fresnel zone (as defined in Sec. 14-6(b) of the Calumet County Code of Ordinances) for the communication path.

(b) Commercial Communications Interference Mitigation. An Owner shall use reasonable and commercially available technology to mitigate interference caused by a Wind Energy System with commercial communications in use when a Wind Energy System begins operation. Before implementing mitigation measures, the Owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in par. (d), an Owner shall mitigate commercial communications interference caused by the Wind Energy System by making the affected party's preferred reasonable mitigation solution effective until either the Wind Energy System is decommissioned or the communication is no longer in use, whichever is earlier. This subsection does not apply to Small Wind Energy Systems.

(c) Personal Communications Interference Mitigation.

- (1) An Owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a Wind Energy System begins operation caused by a Wind Energy System.
- (2) An Owner shall use reasonable and commercially available technology to mitigate interference with personal communications not in use when the Wind Energy System began commercial operation if the Wind Energy System is causing the interference and the interference occurs at a location at least 0.5 mile from a wind turbine.
- (3) Before implementing mitigation measures, the Owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in par. (d), an Owner shall mitigate personal communications interference caused by the Wind Energy System by making the affected party's preferred

reasonable mitigation solution effective until either the Wind Energy System is decommissioned or the communication is no longer in use, whichever is earlier.

This subsection does not apply to Small Wind Energy Systems.

(d) Mitigation Protocol. The County shall require an Owner to implement a new mitigation solution that becomes commercially available before the Wind Energy System is decommissioned to address interference for which mitigation is required under paras. (b) or (c) and for which the original mitigation solution implemented is only partially effective. This subsection does not apply to Small Wind Energy Systems.

Sec. 79-34. Flicker or Shadow Flicker.

(a) Planning.

- (1) The Shadow Flicker requirements in this section apply to a Nonparticipating Residence or Occupied Community Building in existence at time of application or for which complete publicly-available plans for construction are on file with the County or another affected political subdivision within 30 days of the date on which the Owner gives notice under Sec. 79-16.
- (2) An Owner shall design the proposed Wind Energy System to minimize Shadow Flicker at a Residence or Occupied Community Building to the extent reasonably practicable.
- (3) An Owner shall use Shadow Flicker computer modeling to estimate the amount of Shadow Flicker anticipated to be caused by a Wind Energy System and shall design the Wind Energy System so that computer modeling indicates that no Nonparticipating Residence or Occupied Community Building will experience more than 30 hours per year of Shadow Flicker under planned operating conditions. This subsection does not apply to Small Wind Energy Systems.

(b) Shadow Flicker Limits. An Owner shall operate the Wind Energy System in a manner that does not cause more than 30 hours per year of Shadow Flicker at a Nonparticipating Residence or Occupied Community Building. If a Nonparticipating Residence or Occupied Community Building experiences more than 30 hours per year of Shadow Flicker under the Wind Energy System's normal operating conditions, the Owner shall use operational curtailment to comply with this subsection.

(c) Shadow Flicker Mitigation.

- (1) An Owner of a Wind Energy System shall work with an owner of a Nonparticipating Residence or Occupied Community Building to mitigate the effects of Shadow Flicker to the extent reasonably practicable.
- (2) An Owner shall provide reasonable Shadow Flicker mitigation at the Owner's expense for a Nonparticipating Residence or Occupied Community Building experiencing 20 hours or more per year of Shadow Flicker. This subsection does not apply to Small Wind Energy Systems.
- (3) An Owner shall model Shadow Flicker, and a Nonparticipating Residence or Occupied Community Building is eligible for mitigation if computer modeling shows that Shadow Flicker at the Nonparticipating Residence or Occupied Community Building will be 20 hours or more per year. An owner of a Nonparticipating Residence or Occupied Community Building is not required to document the actual hours per year of Shadow Flicker if modeling indicates the Nonparticipating Residence or Occupied Community Building is eligible for mitigation. A Nonparticipating Residence or Occupied Community Building that experiences 20 hours or more per year of Shadow Flicker based on records kept by the resident of a

Nonparticipating Residence or the occupant of an Occupied Community Building shall also be eligible for mitigation. This subsection does not apply to Small Wind Energy Systems.

- (4) An Owner may provide Shadow Flicker mitigation for any Residence or Occupied Community Building in addition to the mitigation required under par. (2). This subsection does not apply to Small Wind Energy Systems.
- (5) The requirement under par. (2) to mitigate Shadow Flicker applies when the Owner receives a complaint or request for mitigation regarding Shadow Flicker for an eligible Nonparticipating Residence or Occupied Community Building. If Shadow Flicker mitigation is required, the Owner of the Wind Energy System shall allow the owner of the Nonparticipating Residence or Occupied Community Building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the Wind Energy System Owner's expense. This subsection does not apply to Small Wind Energy Systems.

(d) Waiver. Upon request by an Owner of a Wind Energy System, an owner of an affected Nonparticipating Residence or Occupied Community Building may relieve the Wind Energy System Owner of a requirement under paras. (b) or (c)(2) at the affected Nonparticipating Residence or Occupied Community Building by written contract with the Wind Energy System Owner. Unless otherwise provided in a contract signed by an owner of an affected Nonparticipating Residence or Occupied Community Building, a waiver by an owner of an affected Nonparticipating Residence or Occupied Community Building is an encumbrance on the real property and runs with the land until the Wind Energy System is decommissioned, and shall be recorded pursuant to Wis. Stat. Ch. 706.

(e) Notification.

- (1) Before entering into a contract under par. (d), a Wind Energy System Owner shall provide notice of the requirements of this section to individual owners of an affected Nonparticipating Residence or Occupied Community Building.
- (2) Before the initial operation of the Wind Energy System, a Wind Energy System Owner shall provide notice of the requirements of this section to an owner of a Nonparticipating Residence or Occupied Community Building within 0.5 mile of a constructed wind turbine that has not entered into a contract under par. (d).

This subsection does not apply to Small Wind Energy Systems.

Sec. 79-35. Stray Voltage.

(a) Testing Required.

- (1) An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a Wind Energy System pursuant to the stray voltage protocol established by the Commission before any Wind Energy System construction activity that may interfere with testing commences and again after construction of the Wind Energy System is completed, except as otherwise specified by Commission staff under par. (2).
- (2) Before any testing under par. (1) begins, an Owner shall work with Commission staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under par. (1) shall conduct or arrange to conduct all required testing at the expense of the Owner.

(b) Results of Testing. An Owner and the electric distribution company shall provide to Commission staff the results of all stray voltage testing in writing.

(c) Requirement To Rectify Problems. An Owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the Wind Energy System, in compliance with the Commission's stray voltage protocol.

Sec. 79-36. Reporting Hazardous Spills.

Any person required under Wis. Stat. Ch. 292 to report a hazardous substance spill that occurs at a Wind Energy System site shall also immediately notify the Calumet County Sheriff's Department.

Sec. 79-37 -- 79-49. Reserved.

ARTICLE IV.

SMALL WIND ENERGY SYSTEMS

Sec. 79-50. Exemptions from this Chapter for Small Wind Energy Systems.

All of the provisions of this Chapter apply to Small Wind Energy Systems except Sec. 79-32(d)(4) & (f)(2); Sec. 79-34(a)(3), (c)(2)-(5), & (e); Sec. 79-33(b)-(d); Sec. 79-30(a)(8), (b)(2)-(3), (c)(2)-(4), & (d)(2)-(6); Sec. 79-62(a)(3)-(5), (b), & (c); Sec. 79-17(b)(12)-(13); Sec. 79-19(b)(2)(A)-(C) & (E)-(F); Sec. 79-17(f); Sec. 79-21(b); Sec. 79-61(b)(2)-(5); and Sec. 79-61(d).

Sec. 79-51. Modifications to this Chapter for Small Wind Energy Systems.

The following provisions in this Chapter are modified to apply to a Small Wind Energy System as follows:

(a) Notice. Under Sec. 79-16, the notice shall be given at least 60 days before an Owner files an application to construct a Small Wind Energy System, and the notice shall be provided only to adjacent landowners and the political subdivisions with jurisdiction over the Small Wind Energy System.

(b) Setback Distances. In Sec. 79-31:

(1) Table 1 is replaced with Table 2 below.

(2) The owner of an adjacent Nonparticipating Residence or adjacent Occupied Community Building may waive the applicable turbine setback distances in Table 2.

Table 2	
Setback Description	Setback Distance
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines – Not including utility service lines to individual houses or outbuildings	1.0 times the maximum blade tip height
Overhead Utility Service Lines – Lines to individual houses or outbuildings	None

(d) Noise. Under Sec. 79-32(f)(2), an Owner shall provide notice of the requirements of Sec. 79-32 only to each adjacent Nonparticipating Residence or Occupied Community Building before the initial operation of the Small Wind Energy System.

(e) Useful Life. Under Sec. 79-62(a), a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.

(f) Effects on Land Uses. Under Sec. 79-17(b)(7), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall only be for parcels adjacent to the Small Wind Energy System.

(g) Application Notice. Under Sec. 79-17(e)(1), written notice of the filing of the application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.

Sec. 79-52 -- 79-59. Reserved.

ARTICLE V.

MISCELLANEOUS PROVISIONS

Sec. 79-60. Revocation or Suspension of a Permit.

(a) A Wind Energy Siting Permit may be revoked if, after the notice and correction provisions of Sec. 79-21 have been met:

- (1) The applicant fails to comply with conditions of the Wind Energy Siting Permit or this Chapter;
- (2) The Code Administrator determines that the Wind Energy System has not been properly maintained and poses a threat to health or safety;

- (3) If the Wind Energy System authorized by Permit is not completed within the timeline approved as part of the Permit issued by the County, subject to any extensions granted by the Code Administrator per the request of the applicant and a showing of good cause; or
 - (4) The Wind Energy System has been abandoned.
- (b) Revocation Process:
- (1) The Committee shall hold a hearing to determine whether the Permit should be revoked. The applicant shall be given notice of the time and date of the hearing. The Committee shall receive testimony; the applicant will be permitted to provide evidence as well. The Committee shall issue a written decision based on substantial evidence.
 - (2) Any person aggrieved by this determination may seek a review of the determination pursuant to the provisions of Sec. 79-64.
- (c) Notwithstanding any other provision, the Code Administrator may immediately suspend a Wind Energy Siting Permit in case of an imminent substantial health or safety issue only for the length of time necessary to remedy the substantial health or safety issue. The applicant shall have the right to request a review hearing within 48 hours of the Code Administrator's decision to immediately suspend a Wind Energy Siting Permit with the Committee.

Sec. 79-61. Complaint Process.

- (a) Making a Complaint.
- (1) An aggrieved person may make a complaint regarding failure by an Owner to comply with an obligation under this Chapter.
 - (2) A complaint under par. (a) shall be made first to the Owner of the Wind Energy System pursuant to a complaint resolution process developed by the Owner.
 - (3) A complainant may petition the County for review of a complaint that is not resolved within 45 days of the day the owner receives the original complaint. Such a complaint shall first be referred by the Committee to the Monitoring Committee as established under par. (e) below.
 - (4) A decision by the County with respect to a petition for review under par. (3) is subject to review pursuant to the provisions of Sec. 79-64.
- (b) Complaint Resolution.
- (1) An Owner shall use reasonable efforts to resolve complaints regarding a Wind Energy System and shall investigate complaints regarding a Wind Energy System at the Owner's expense.
 - (2) Upon receipt of a complaint, an Owner shall provide the complainant with a copy of the notice described in par. (c) below. Within 30 days of receiving a complaint, an Owner shall provide an initial response to the complainant. This subsection does not apply to Small Wind Energy Systems.
 - (3) An Owner shall make a good faith effort to resolve complaints within 45 days of receiving a complaint. An Owner shall notify the County of complaints that have not been resolved within 45 days of the date the Owner received the original complaint. This subsection does not apply to Small Wind Energy Systems.

- (4) An Owner shall maintain a log of all complaints received regarding the Wind Energy System. The owner shall include in the log the name and address of each complainant, the nature of each complaint, and the steps taken to resolve each complaint. An Owner shall provide a copy of a complaint log monthly, at no cost, to the Monitoring Committee established pursuant to par. (e) below. An Owner shall make any complaint log available to the Commission upon request. This subsection does not apply to Small Wind Energy Systems.
- (5) An Owner shall develop a complaint resolution process that is consistent with this subsection. This subsection does not apply to Small Wind Energy Systems.

(c) Notice Of Process For Making Complaints. Before construction of a Wind Energy System begins, an Owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An Owner shall include in the notice the requirements under this section for submitting a complaint to the Owner, a petition for review to the County, and an appeal to the Commission, and shall include a contact person and telephone number for the Owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

(d) Notice to County. An Owner shall provide a copy of the notice under par. (c) to the County and any other political subdivision with jurisdiction over the Wind Energy System, and the Owner shall keep the contact person and telephone number current and on file with the County and the other political subdivisions. This subsection does not apply to Small Wind Energy Systems.

(e) Monitoring Committee.

- (1) A Monitoring Committee is hereby established to oversee the resolution of complaints regarding Wind Energy Systems. Said Monitoring Committee shall be comprised of five (5) members to be appointed by the Committee. The Committee shall include:
 - (a) One (1) member who is a local employee of an Owner of a Wind Energy System;
 - (b) If available, one (1) member who is a nonparticipating landowner residing in the County within 0.5 mile of a wind turbine located in the County; and
 - (c) One (1) member who is a member of the Calumet County Board of Supervisors and who serves on the Committee.

The Committee shall make reasonable efforts to appoint the remaining members as follows:

- (d) At least one (1) additional member who is a nonparticipating landowner residing in the County within 0.5 mile of a wind turbine located in the County; and
 - (e) At least one (1) member who is a participating landowner.
- (2) Each member of the Monitoring Committee shall serve for a term of three (3) years. However, these terms of office shall be staggered such that no more than two members' terms of office expire in any one year. Each term shall begin July 1.
 - (3) The Monitoring Committee shall select its own chair and vice-chair. The Code Administrator or his/her designee shall serve as the recording secretary for the Monitoring Committee.
 - (4) Members of the Monitoring Committee may be removed by the Committee for cause upon written charges. Cause may include excessive absenteeism.

- (5) The Monitoring Committee shall:
 - (a) Maintain a record of all complaints brought to it;
 - (b) Require the Owner to provide the Monitoring Committee with information regarding the Owner's response to any complaint referred to the Monitoring Committee; and
 - (c) Recommend to the Committee a reasonable resolution to a complaint based upon the information gathered by the Monitoring Committee.
- (6) Operation and Rules.
 - (a) Adoption. The Monitoring Committee shall adopt rules for the conduct of its business which shall be in accordance with the provisions of this Chapter.
 - (b) Call to Meetings. The Monitoring Committee shall meet at the call of the chair, and at such other time as the Monitoring Committee may determine, at a fixed time and place.
 - (c) Open Meetings. All meetings of the Monitoring Committee shall be open to the public, unless authorized by Wisconsin Law.
 - (d) Minutes. The Monitoring Committee 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 examination and other official actions, all of which shall be public record.
 - (e) Quorum. The quorum for any meeting shall consist of three (3) members.

Sec. 79-62. Decommissioning.

- (a) Requirement to Decommission.
 - (1) An Owner of a Wind Energy System shall decommission and remove the Wind Energy System when the System is at the end of its useful life.
 - (2) A Wind Energy System is presumed to be at the end of its useful life if the Wind Energy System generates no electricity for a continuous 360-day period. This presumption may be rebutted under par. (3).
 - (3) Upon application by the Owner, and except as provided in par. (4), the County shall grant an extension of the time period for returning the Wind Energy System to service by one or more additional 180-day periods if the Owner demonstrates it is likely the Wind Energy System will operate again in the future and any of the following occur:
 - A. The Owner submits a plan to the County that demonstrates an ongoing good faith effort to return the Wind Energy System to service and outlines the steps and schedule for returning the Wind Energy System to service in a reasonable period of time, including by repairing, replacing, or repowering the Wind Energy System facilities as necessary to generate electricity;
 - B. The Owner demonstrates that the Wind Energy System is part of a prototype or other demonstration project being used for ongoing research or development purposes; or

- C. The Owner demonstrates that the Wind Energy System is being used for educational purposes.

This subsection does not apply to Small Wind Energy Systems.

- (4) The County may deny a request for an extension under par. (3) if the Wind Energy System has not generated any electricity for a continuous period of 540 days or more and the County finds that the Owner is not capable of returning the Wind Energy System to service within a reasonable period of time. This subsection does not apply to Small Wind Energy Systems.
- (5) A Wind Energy System is irrebuttably presumed to be at the end of its useful life if the Wind Energy System generates no electricity for a period of 540 days and any of the following occur:
 - A. The Owner does not request an extension of the time period for returning the Wind Energy System to service under par. (3); or
 - B. The County denies a request for an extension under par. (4) and any appeal rights have expired.

This subsection does not apply to Small Wind Energy Systems.

- (6) When decommissioning is required, the Owner shall begin decommissioning within 360 days after the Wind Energy System has reached the end of its useful life. The Owner shall complete decommissioning and removal of the Wind Energy System within 540 days after the Wind Energy System has reached the end of its useful life.

(b) Financial Responsibility.

- (1) The Owner of a Wind Energy System with a nameplate capacity of one megawatt or larger shall maintain proof of the Owner's ability to fund the actual and necessary cost to decommission the Wind Energy System and shall ensure the availability of funds necessary for decommissioning throughout the expected life of the Wind Energy System and through to completion of the decommissioning activities.
- (2) An Owner of a Wind Energy System with a nameplate capacity of one megawatt or larger shall provide financial assurance of the Owner's ability to pay for the actual and necessary cost to decommission the Wind Energy System before commencing major civil construction activities such as blasting or foundation construction at the Wind Energy System site. An Owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the Wind Energy System and through to completion of the decommissioning activities.
- (3) An Owner shall provide the financial assurance under par. (2) in an amount up to the estimated actual and necessary cost to decommission the Wind Energy System. In doing so:
 - A. The Owner shall provide the County with up to 3 cost estimates of the actual and necessary cost to decommission the Wind Energy System that are prepared by third parties agreeable to the Owner and the County. The financial assurance required by the County under par. (2) shall not exceed average of the cost estimates provided.

- B. The Owner shall establish financial assurance that places the County in a secured position, and any secured funds may only be used for decommissioning the Wind Energy System until either the County determines that the Wind Energy System has been decommissioned under par. (d)(2) or until the County has otherwise approved the release of the secured funds, whichever is earlier.
 - C. The Owner shall establish financial assurance that allows the County to access funds for the purpose of decommissioning the Wind Energy System if the Owner does not decommission the Wind Energy System when decommissioning is required.
- (4) The County shall condition its approval of a Wind Energy System on the Owner's compliance with pars. (2) and (3).
 - (5) During the useful life of a Wind Energy System, the County may periodically request information from the Owner regarding the industry costs for decommissioning the Wind Energy System. If the future anticipated cost to decommission the Wind Energy System is at least 10 percent more or less than the amount of financial assurance previously provided under par. (2), the County may correspondingly increase or decrease the amount of financial assurance required for the Wind Energy System. The County shall not adjust the financial assurance under this paragraph more often than once in a 5-year period.
 - (6) An Owner shall submit to the County a substitute financial assurance of the Owner's choosing under par. (2) if an event occurs that raises material concerns regarding the viability of the existing financial assurance.

This subsection does not apply to Small Wind Energy Systems.

(c) Site Restoration.

- (1) Except as provided in par. (2), if a Wind Energy System was constructed on land owned by a person other than the Owner of the Wind Energy System, the Owner of the Wind Energy System shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.
- (2) If a Wind Energy System was constructed on a brownfield, as defined in Wis. Stat. § 560.13(1)(a), the Owner shall restore the property to eliminate effects caused by the Wind Energy System, except for the effects of environmental remediation activities, as defined in Wis. Stat. § 560.13(1)(d).

This subsection does not apply to Small Wind Energy Systems.

(d) Decommissioning Completion.

- (1) An Owner shall file a notice of decommissioning completion with the County and the Commission when a Wind Energy System approved by the County has been decommissioned and removed.
- (2) Within 360 days of receiving a notice of decommissioning, the County shall determine whether the Owner has satisfied the requirements of paras. (a)(1) and (c).

(e) Decommissioning Review Process. Any applications under subsection (a)(3) above shall be submitted to the Committee, which shall have the authority to approve or deny said applications in whole or in part. The Committee shall act on any such applications only after conducting a public

hearing, of which the Owner and any interested member of the public shall be allowed to be heard regarding the application. The cost of the hearing shall be the responsibility of the Owner.

Sec. 79-63. Severability.

The sections, paragraphs, sentences, clauses, articles, and phrases of this Chapter are severable; if any provision is found to be unconstitutional, invalid or unenforceable, such finding shall not affect the remaining portions of this Chapter.

Sec. 79-64. Public Service Commission Review.

A decision of the County to determine that an application is incomplete or to approve, disapprove, or impose a restriction on a Wind Energy System, or an action of the County to enforce a restriction on a Wind Energy System, may be appealed only as provided in Wis. Stat. § 66.0401(5).

Sec. 79-65. Fees.

(a) An Owner shall pay a non –refundable application fee as set forth on a schedule to be established and maintained by the Committee. Said fee shall be paid at the time the application is filed with the Code Administrator. Each new application or refiling of a prior application shall require payment of a separate non-refundable application fee.

(b) In addition to the application fee described in par. (a) above, an Owner shall also reimburse the County for its reasonable expenses relating to the review and processing of an application for a Wind Energy System. Said reimbursement shall be based on the actual and necessary cost of the review of the proposed Wind Energy System application, including the cost of services necessary to review the application provided by outside engineers, attorneys, planners, environmental specialists, and other consultants and experts. The Code Administrator shall give notice to the Owner within 10 calendar days of the date on which the application is deemed complete of an estimate of the total projected reimbursement amount. The Owner shall pay 50% of the total estimated reimbursement amount before the Committee issues its written decision on the application pursuant to Sec. 79-19(b), and the Owner shall pay the remaining actual reimbursement amount within 90 days of the date on which the Committee issues said written decision.

Sec. 79-66 -- Sec. 79-85. Reserved.

Sec. 79-86. Appendix.

The measurement protocol for sound and vibration assessment of proposed and existing Wind Energy Systems shall be contained herein this Appendix.

- (a) Introduction. The potential sound and vibration impact associated with the operation of wind powered electric generators is often a primary concern for citizens living near proposed Wind Energy Systems. This is especially true of projects located near homes, residential neighborhoods, businesses, schools, and hospitals. Determining the likely sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision makers.

This protocol is based in part on criteria published in the *Standard Guide for Selection of Environmental Noise Measurements and Criteria*.¹ and the Public Service Commission of Wisconsin publication *Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (February 2002)*.² It also includes by reference the procedures of American National Standards S12.9-*Quantities and Procedures for Description and Measurement of Environmental Sound*, and S12.18 and S12.19, for the measurement of sound pressure level and impulse sound outdoors.

The purpose is to first, establish a consistent and scientifically sound procedure of evaluating existing background levels of audible sounds and Low Frequency Sound produced in a Wind Energy System project area, and second, to use the information provided by the Permittee in its Application showing the predicted over-all sound pressure levels in terms of dBA, dBC and dBZ (linear) over the frequency range from the Blade Passage Frequency through at least 10,000 HZ and the corresponding 1/1 or 1/3 Octave Band sound pressure levels for the same frequency range. These values shall be presented in graphic contours of the iso-levels and in tabular form at sufficient sites to permit comparison of the baseline results to the predicted levels. This comparison will use the level limits of (a)(4) and (5) to determine the likely impact that operation of a new Wind Energy System will have on the existing environment. If the comparison demonstrates that the Wind Energy System will not exceed any of the level limits for over-all, or 1/1 or 1/3 Octaves, the Wind Energy System will be considered to be within allowable limits for health and safety. If the Permittee submits only partial information required for the comparison the burden to establish the Wind Energy System as meeting health and safety limits will be on the Permittee.

Third, if the project is approved, this Appendix covers the study needed to compare the post-build sound levels to the predictions and the baseline study. The level limits in (4) and (5) apply to the post-build study. In addition, if there have been any complaints about the Wind Energy System sound or low frequency noise emissions by any resident of an occupied dwelling that property will be included in the post-build study for evaluation against the rules of this Appendix.

The characteristics of the proposed Wind Energy System and the features of the surrounding environment will influence the design of the sound and vibration study. Site layout, types of Wind Energy System(s) selected and the existence of the significant local sound and low frequency noise sources, and sensitive receptors, should be taken into consideration when designing a sound and vibration study. It will be necessary to have a qualified independent consultant conduct the pre-construction background and post-construction sound (and vibration) studies.

- (b) Instrumentation. All instruments and other tools used to measure audible sounds and low frequency noise shall meet the requirements for ANSI Type 1 performance and accuracy. Measurements shall be made with a manufacturer's approved wind screen protecting the microphone and only when winds are less than 10 mph at the microphone that has been designed to maintain the Type 1 accuracy requirements. The microphone shall be located at a height of 1.2 to 1.5 meters for all tests unless circumstances require a different measurement position. In that case the reasons shall be documented and include any adjustments needed to make the results correspond to the preferred measurement location.
- (c) Measurement of the Existing Sound and Vibration Environment. An assessment of the proposed Wind Energy System project area existing sound and vibration environment is necessary in order to predict the likely impact resulting from a proposed project. The following guidelines must be used in developing a reasonable estimate of an area's existing sound and vibration environment. All testing is to be performed by an independent acoustical testing engineer or other qualified noise consultant approved by the Committee. The Wind Energy System applicant may file objections detailing any concerns it may have with the Committee's selection. These concerns will be addressed in the study. Objections must be filed prior to the start of the noise study. All measurements are to be conducted with industry certified testing equipment⁴. All test results must be reported to the Committee.
- (d) Sites with No Existing Wind Energy Systems.
 - (1) Sound level measurements shall be taken as follows:
 - A. The results of the model showing the predicted worst case sound emissions of the proposed Wind Energy System(s) will be overlaid on a map of the project area. A grid

comprised of one (1) mile boundaries (each grid cell is one square mile) will be used to identify between five (5) to ten (10) measurement points. The grid shall extend to 2500 feet beyond the perimeter of the project boundary. The measurement points will be selected to represent the noise sensitive receptor sites that will be most likely to be negatively affected by the Wind Energy System(s) sound emissions. These sites may include sites adjacent to occupied dwellings or other noise sensitive receptor sites and, if deemed appropriate by the County, the inside of occupied structures. Sites shall be selected to represent the locations where the background soundscapes reflect the quietest locations of the sensitive receptor sites. Background sound levels and sound pressure levels shall be obtained according generally recognized acoustical testing practice and standards.

- B. All properties within the proposed Wind Energy System project boundaries will be considered for this study.⁵
- C. One test shall be conducted during the period defined by the months of April through November with the preferred time being the months of June through August. Unless directed otherwise by the County the season chosen for testing will represent the background soundscape for other seasons. At the discretion of the County, tests may be scheduled for other seasons.
- D. All measurement points (MPs) shall be located in consultation with County staff and property owner(s) such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the nearest proposed Wind Energy System site.
- E. Duration of measurements shall be a minimum of ten (10) continuous minutes for each criterion at each location. The duration must include at least six (6) minutes that are not affected by transient sounds from non-nature sources. Longer durations such as thirty (30) minutes or one (1) hour are preferred to improve the reliability of the L₉₀ values.
- F. The tests at each site selected for this study shall be taken during the expected 'quietest period of the day or night' as appropriate for the site. For the purpose of determining background sound characteristics the preferred testing time is from 8 p.m. until 4 a.m. If circumstances indicated that a different time of the day should be sampled the test may be conducted at the alternate time if approved by the County.
- G. Sound level measurements must be made on a weekday of a non-holiday week.
- H. Measurements must be taken at 1.2 to 1.5 meters above the ground and at least fifteen (15) feet from any reflective surface³.
- I. For each measurement point and for each measurement period, provide each of the following measurements:
 - 1. Un-weighted octave-band analysis (from Blade Passage Frequency up to 16, 31.5, 63, 125, 250, 500, 1K, 2K,4K, and 8K Hz and over-all linear or dBZ level):
 - i. L_{Aeq}, L₁₀, L₅₀, and L₉₀, in dBA
 - ii. L_{Ceq}, L₁₀, L₅₀, and L₉₀, in dBC
 - iii. L_{Zeq}, L₁₀, L₅₀, and L₉₀, in dBLinear (sometimes referred to as 'Z' weighting)
 - 2. A narrative description of any intermittent sounds registered during each measurement.
 - 3. A narrative description of the steady sounds that form the background soundscape.

4. Wind speed and direction at the measurement point, humidity and temperature at time of measurement will be included in the documentation.

J. Measurements taken when wind speeds exceed five (5) mph at the microphone location will not be considered valid for this study. A windscreen of the type recommended by the monitoring instrument's manufacturer meeting Type 1 standards must be used for all data collection.

(2) Provide a map and/or diagram clearly showing:

- A. The layout of the project area, including topography, the project boundary lines⁵, and property lines.
- B. The locations of the measurement points.
- C. The minimum and maximum distance between any measurement points.
- D. The location of significant local sound and vibration sources
- E. The distance between all measurement points and significant local sound vibration and sources.
- F. The location of all sensitive receptors including but not limited to: schools, day-care centers, hospitals, residences, residential neighborhoods, places of worship, and elderly care facilities.

(e) Sites with Existing Wind Energy Systems.

(1) Two (2) complete sets of sound level measurements must be taken as defined below:

- A. One (1) set of measurements with the wind generator(s) off unless the County elects to substitute the sound data collected for the background sound study.
- B. One (1) set of measurements with the wind generator(s) running with the wind speed at hub height sufficient to meet nominal power output or higher. Conditions should reflect the worst case sound emissions from the Wind Energy System(s).

(2) Sound level measurements shall be taken as follows:

- A. At all properties within the proposed Wind Energy System project boundaries that were selected for the background sound study. Additional points may be added at the discretion of the County.⁵
- B. One (1) test shall be conducted during a period defined by the months of April through November with the preferred time being the months of June through August. Unless directed otherwise by the County the season chosen for testing will represent the background soundscape for other seasons. At the discretion of the County, tests may be scheduled for other seasons.
- C. All measurement points (MPs) shall be located in consultation with the County and property owner(s) such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the nearest proposed Wind Energy System site.

- D. Duration of measurements shall be a minimum of ten (10) continuous minutes for each criterion at each location. The duration must include at least six (6) minutes that are not affected by transient sounds from non-natural sources. Longer durations such as thirty (30) minutes or one (1) are preferred to improve the reliability of the L₉₀ values.
 - E. The tests at each site selected for this study shall be taken during the expected worst-case Wind Energy System sound emissions as appropriate for the site. For the purpose of determining sound characteristics when the Wind Energy System(s) are operating, the preferred testing time is from 8 p.m. until 4 a.m. If circumstances indicated that a different time of the day should be sampled the test may be conducted at the alternate time if approved by the County.
 - F. Sound level measurements must be made on a weekday of a non-holiday week.
 - G. Measurements must be taken at 1.2 to 1.5 meters above the ground and at least fifteen (15) feet from any reflective surface³.
- (3) For each measurement point and for each measurement period, provide each of the following measurements:
- A. Un-weighted octave-band analysis (from Blade Passage Frequency up to 16, 31.5, 63, 125, 250, 500, 1K, 2K,4K, and 8K Hz and over-all linear or dBZ level):
 - 1. L_{Aeq}, L₁₀, L₅₀, and L₉₀, in dBA
 - 2. L_{Ceq}, L₁₀, L₅₀, and L₉₀, in dBC
 - 3. L_{Zeq}, L₁₀, L₅₀, and L₉₀, in dBLinear (sometimes referred to as ‘Z’ weighting)
 - B. A narrative description of any intermittent sounds registered during each measurement.
 - C. A narrative description of the steady sounds that form the ambient with Wind Energy System operating soundscape.
 - D. Wind speed and direction at the measurement point, humidity and temperature at time of measurement, will be included in the documentation.
- (4) Measurements taken when wind speeds exceed ten (10) mph at the microphone location will not be considered valid for this study. A windscreens of the type recommended by the monitoring instrument’s manufacturer meeting Type 1 standards must be used for all data collection. If measurements must be conducted with wind speeds in excess of ten (10) mph at the microphone, to meet the worst-case requirement for the Wind Energy System(s) sound emission, the method used to isolate the microphone from the effects of wind and turbulence must be approved by the County and meet procedures generally recognized as appropriate by acoustical standards for measurement under those conditions.
- (5) Provide a map and/or diagram clearly showing:
- A. The layout of the project area, including topography, the project boundary lines⁵, and property lines
 - B. The locations of the measurement points
 - C. The minimum and maximum distance between any measurement points

D. The location of significant local sound and vibration sources

E. The distance between all MPs and significant local sound vibration and sources

F. The location of all sensitive receptors including but not limited to: schools, day-care centers, hospitals, residences, residential neighborhoods, places of worship, and elderly care facilities.

(f) Sound Level Estimates for Proposed Wind Energy Systems.

- (1) In order to estimate the sound and vibration impact of the proposed Wind Energy System(s) on the existing environment an estimate of the sound and vibration produced by the proposed Wind Energy System(s) under worst-case conditions for producing sound emissions must be provided. This study may be conducted by a firm chosen by the Wind Energy System operator with oversight provided by the County Board. The qualifications of the firm should be presented along with details of the procedure that will be used, software applications, and any limitations to the software or prediction methods.
- (2) Provide the manufacturer's sound power level (L_w) characteristics for the proposed Wind Energy System(s) operating at full load for Blade Passage Frequency up to 16, 31.5, 63, 125, 250, 500, 1K, 2K,4K, and 8K Hz and over-all linear or dBZ levels. Include an unweighted octave-band from Blade Passage Frequency up to 16, 31.5, 63, 125, 250, 500, 1K, 2K,4K, and 8K Hz and over-all linear or dBZ level. Sound pressure levels predicted for the Wind Energy System(s) at full operation and at maximum sound power output shall be provided for distances of 500, 1000, 1500, 2000, and 2500 feet from the Wind Energy System(s).
- (3) Estimate the sound levels for the proposed Wind Energy System(s) in dBA, dBC and dBZ at distances of 500, 1000, 1500, 2000, and 2500 feet from the Wind Energy System(s). For projects with multiple Wind Energy System(s), the combined sound level impact for all Wind Energy System(s) operating at full load must be estimated.
- (4) The above two (2) requirements should be presented in a table that includes the impact of the Wind Energy System(s) operations on all residential and other noise sensitive receiving locations within the project boundary. To the extent possible, the tables should include the sites tested in the background study.
- (5) Provide a contour map of the expected sound level from the new Wind Energy System(s), using five (5) dBA increments created by the proposed Wind Energy System(s), extending out to a distance of 2500 feet from the project boundary.
- (6) Determine the impact of the proposed sound and vibration from the Wind Energy System(s) project on the existing environment. The results should anticipate the receptor sites that will be most negatively impacted by the Wind Energy System(s) project and to the extent possible provide data for each measuring point that are likely to be selected in the background sound study (note the sensitive receptor measuring points):
 - A. Report expected changes to existing sound levels for L_{Aeq} , L_{10} , L_{50} , and L_{90} , in dBA
 - B. Report expected changes to existing sound levels for L_{Ceq} , L_{10} , L_{50} , and L_{90} , in dBC
 - C. Report expected changes to existing sound levels for L_{Zeq} , L_{10} , L_{50} , and L_{90} , in dBZ
 - D. Report the predicted sound pressure levels for each of the 1/1 or 1/3 octave bands included in

the table and those not included up to the 8000 Hz octave band.

- E. Report all assumptions made in arriving at the estimate of impact, any limitations that might cause the sound levels to exceed the values of the estimate, and any conclusions reached regarding the potential effects on people living near the project area.
- F. Include an estimate of the number of hours of operation expected from the proposed Wind Energy System(s) and under what conditions the Wind Energy System(s) would be expected to run. Any differences from the information filed with the Application should be addressed.
- (g) Post-Construction Measurements. Post Construction Measurements should be conducted by a qualified noise consultant selected by and under the direction of the County. The requirements of this Appendix for Sites with Existing Wind Energy Systems shall apply.
- A. Within twelve (12) months of the date when the project is fully operational, and within two (2) weeks of the anniversary date of the pre-construction ambient noise measurements, repeat the existing sound and vibration environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all Wind Energy System(s) running and with all Wind Energy System(s) off, except as provided in this Appendix where applicable.
- B. Report post-construction measurements to the County Board using the same format as used for the background sound (and vibration) study.

¹ Standard Guide for Selection of Environmental Noise Measurements and Criteria (Designation E 1686-96). July 1996. American Society for Testing and Measurements.

² Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants. February 2002. Public Service Commission of Wisconsin.

³ Environmental Noise Guidelines: Wind Farms. (ISBN 1 876562 43 9). February 2003. Environment Protection Authority, Adelaide SA.

⁴ The Public Service Commission of Wisconsin Staff acknowledges that few sound level meters are capable of measurement of the 16 Hz center frequency octave band. However, because noise complaints from the public most likely involve low frequency noise associate with proposed Wind Energy system(s) [power plants], we encourage applicants to pursue the collection of this important ambient noise data. If obtaining the 16 Hz and lower data presents a problem contact PSCW Staff prior to collection of any field ambient measurement data.

⁵ Project Boundary: A continuous line encompassing all Wind Energy System(s) and related equipment associated with the Wind Energy System(s) project.

REFERENCES

- **ANSI S12.9-1988/Part 1 (R 2003)** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 1.
- **ANSI S12.9-1992/Part 2 (R 2003)** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 2: Measurement of Long-Term, Wide-Area Sound.
- **ANSI S12.9-1993/Part 3 (R 2003)** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 3: Short-Term Measurements with an Observer Present.
- **ANSI S12.9-2005/Part 4** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 4: Noise Assessment and Prediction of Long-Term Community Response.
- **ANSI S12.9-1998/Part 5 (R 2003)** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 5: Sound Level Descriptors for Determination of Compatible Land Use.

- **ANSI S12.9-2000/Part 6 (R 2005)** American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 6: Methods for Estimation of Awakenings Associated with Aircraft Noise Events Heard in Homes.
- **ANSI S12.17-1996 (R 2006)** American National Standard Impulse Sound Propagation for Environmental Noise Assessment.
- **ANSI S12.18-1994 (R 2004)** American National Standard Procedures for Outdoor Measurement of Sound Pressure Level.

ARTICLE VI.

MORATORIUM

Sec. 79-87. Moratorium.

A moratorium on the receipt of applications and the granting of permits under this chapter is hereby enacted for a period of one hundred twenty (120) days from the date this ordinance is passed by the County Board and published as provided by law or until the County Board adopts amendments or rescinds this ordinance, or both.

The purpose of the moratorium is to review and modify this chapter to preserve and protect the public health and safety, and to protect property rights of all county residents and landowners. A moratorium will allow the investigation of issues raised since the adoption of Chapter 79 to determine if there is sufficient reason to amend this chapter.

The issues to consider during the moratorium are:

1. Public Health and Safety.
 - A. Groundwater impact study to determine what effect the construction of wind energy facility will have in the karst area;
 - B. Whether to lower the noise signature to 40 dBA at a residence given the current limit is no more than 50 dBA at a residence and at least one company has projected noise levels to be only 40 dBA at 1000 feet, 35 dBA between 1000 and 2000 feet;
 - C. Shadow or flicker and whether there should be a pre-project modeling of the impacted areas and relocation of a facility or shutdown of a facility during problem periods to eliminate shadow and flicker from impinging upon existing or proposed homes.
2. Property Rights.
 - A. Setbacks and whether a setback of 1150 feet from residences and property lines should be considered unless impacted owners agree to a variance based on turbine manufacturer standards not to install units closer than 350 meters (1137 feet) from any residence due to known concerns. Also giving consideration to whether property rights are usurped if a facility is located less than 1000 feet from a property line;
 - B. A provision to protect the land and home values of current landowners and residents.

Sec. 79-88. Moratorium - 2008.

Section 79-87 providing for a 120 day moratorium will expire on January 16, 2008.

Calumet County is a proposed site for the construction of wind energy systems due to its favorable sustained winds.

A significant number of wind energy systems proposed to be constructed in Calumet County are of industrial size, approximately 400 feet or higher.

Calumet County believes that given the industrial-size of these systems they will likely pose substantial dangers to the health and safety of the public without appropriate regulation.

Calumet County has searched for information about the effects of wind energy systems of the size proposed to be constructed in the county.

Calumet County has researched wind energy projects throughout the world and has not been able to find information about the particular sized systems proposed to be constructed in this county.

Although provided anecdotal information about the negative effects of wind energy systems upon people, there is a lack of scientific study due to the novel size of these systems.

Due to the lack of scientific studies Calumet County is in need of more time to learn the effects of these industrial-sized systems on the health and safety of the public.

The only other like-size systems known to Calumet County are currently under construction in Fond du Lac County and Dodge County, said systems expected to be operating some time Spring 2008.

Calumet County needs time to observe other like-size systems in operation in order to determine what effects they may have on people living, recreating and working near them.

For the reasons set forth above and in the best interests of the health and safety of the county and its residents and visitors a moratorium on the receipt of applications and the granting of permits under this Chapter is hereby enacted for a period of seventy (70) days beginning January 17, 2008 or until the county board rescinds or repeals this ordinance.

Section 79-89. Moratorium - 2009.

A Wisconsin Court of Appeals decision in Appeal No. 2007AP109 issued on July 15, 2009 has held Chapter 79 of the Code of Ordinances regulating Wind Energy Facilities “to be *ultra vires*.” The case is referred back to Circuit Court with directions to reconsider its decision given that the ordinance is *ultra vires* (without authority).

As a result of a Wisconsin Court of Appeals decision the County Board needs time to consider the decision’s impact and what, if any, action Calumet County should take in response to the decision.

A moratorium is needed to protect the health and safety of the residents of Calumet County while Wind Energy Facilities regulation in Calumet County is being discussed and refined.

A temporary stay will allow the County sufficient time to amend existing or create new Ordinances, if necessary.

Without a moratorium landowners and developers might seek to rush projects to construction before the legislative process can be further completed by the County.

A moratorium shall be imposed banning the construction of all new Wind Energy Facilities until the County Board amends its existing ordinance or creates a new ordinance regulating Wind Energy Facilities or December 31, 2009, whichever occurs first. Upon the happening of either event specified herein, this moratorium shall expire unless the County Board takes action to extend it.

Section 79-90. Moratorium - 2010.

On July 21, 2009, a moratorium was established by the Calumet County Board of Supervisors banning the construction of all new Wind Energy Facilities until such time as the County Board either amended

its existing ordinance or created a new ordinance regulating Wind Energy Facilities, or, December 31, 2009, whichever occurred first. Upon the happening of either event specified, the moratorium was set to expire unless the County Board took action to extend the moratorium.

As a result of the Wisconsin Court of Appeals decision, Appeal No. 2007AP109, the decision of which was issued on July 15, 2009, Calumet County petitioned the Wisconsin Supreme Court to hear an appeal of said decision, which was denied on November 13, 2009.

The Public Service Commission of Wisconsin is in the process of adopting rules which may or may not affect local ordinances.

Calumet County has decided it to be in the best interest of the health and safety of their citizens to refrain from hastily amending its existing ordinance or from creating a new ordinance until such time as a new ordinance can be drafted and deliberated ensuring compliance with relevant statutes, court decisions, and regulations.

Therefore, Calumet County hereby extends the moratorium established on July 21, 2009, until April 1, 2010. Such stay will allow Calumet County time to amend their existing ordinance or create a new ordinance if necessary. Said moratorium does not include Meteorological (MET) towers, their associated cables and wires. It is, however, understood that said MET towers must still comply with all other restrictions and permitting requirements.

Section 79-91. Moratorium – March, 2010.

On December 15, 2009, a moratorium was established by the Calumet County Board of Supervisors banning the construction of all new Wind Energy Facilities because the County Board decided it to be in the best interest of the health and safety of its citizens to refrain from hastily amending its existing ordinance or from creating a new ordinance until such time as a new ordinance could be drafted and deliberated ensuring compliance with relevant statutes, court decisions, and regulations. Said moratorium exempted Meteorological (MET) towers, their associated cables and wires. It was, however, understood that said MET towers would still comply with all other restrictions and permitting requirements.

The Calumet County Planning, Zoning, Land and Water Conservation Committee was assigned the duties of drafting a new ordinance. The Committee has proposed permit processing changes to the existing ordinance; however, after Committee discussion they did not propose differing setbacks, which appeared to be a concern to the court. In addition, the moratorium exempted MET towers so as to allow wind energy companies the ability to test the wind so as to determine if there was adequate wind in the County for a wind energy facility. However, as of March 8, 2010, no application for a MET tower had even been submitted to the County

Therefore, Calumet County hereby extends the moratorium established on December 15, 2009, until six months after the current moratorium expires to allow time to determine if the wind is adequate for a wind energy facility, and, to have the Planning, Zoning, Land and Water Conservation Committee evaluate whether changes affecting setbacks need to be made to the ordinance. Said Committee has actively been following this issue and discussing wind energy at their monthly meetings.

Section 79-92. Moratorium – September, 2010.

On December 15, 2009, a moratorium was established by the Calumet County Board of Supervisors banning the construction of all new Wind Energy Facilities because the County Board decided it to be in

the best interest of the health and safety of its citizens to refrain from hastily amending its existing ordinance or from creating a new ordinance until such time as a new ordinance could be drafted and deliberated ensuring compliance with relevant statutes, court decisions, and regulations. Said moratorium exempted Meteorological (MET) towers, their associated cables and wires. It was, however, understood that said MET towers would still comply with all other restrictions and permitting requirements.

On March 16, 2010, the December 15, 2009 moratorium was extended for six months, until October 1, 2010, to allow time to determine if the wind is adequate for a wind energy facility, and, to have the Planning, Zoning, Land and Water Conservation Committee evaluate whether changes affecting setbacks needed to be made to the ordinance.

However, the case of Ecker Brothers vs. Calumet County, 06 CV 134, had not yet been concluded at the time the moratorium was extended. On August 16, 2010, the Honorable Donald A. Poppy signed an order declaring Calumet County's Wind Energy Ordinance, as codified in Chapter 79 of the Calumet County Code of Ordinances, *ultra vires*.

In addition, on August 31, 2010, the Public Service Commission (PSC) filed an Order to Adopt Final Rules proposing to create ch. PSC 128 relating to the siting of wind energy systems. The proposed rules if adopted would provide guidance and limitations to municipal governments, including counties, for wind energy ordinances.

Due to the recent conclusion of the Ecker Brothers litigation and the striking of Ch. 79 of the Calumet County Code of Ordinances it is reasonable and prudent for Calumet County to continue its current moratorium while waiting for the final PSC rules before drafting a wind energy ordinance so that the ordinance will comply with the final PSC rules and the appellate court decision in Ecker Brothers vs. Calumet County.

Therefore, Calumet County hereby extends the moratorium established March 16, 2010 for six months, to April 1, 2011, to allow time for the rules proposed by the PSC as ch. PSC 128 to be finalized and become law so that Calumet County, its attorneys and staff may draft a wind energy ordinance that complies with the final PSC rules and the appellate court decision.

Section 79-93. Moratorium – March 2011.

On August 16, 2010, the Honorable Donald A. Poppy signed an order declaring Calumet County's Wind Energy Ordinance, as codified in Chapter 79 of the Calumet County Code of Ordinances, *ultra vires* (without authority), leaving Calumet County without an ordinance regulating the siting of Wind Energy Systems in Calumet County.

On September 21, 2010 the Calumet County Board of Supervisors passed a moratorium extending a moratorium established on March 16, 2010 because the Public Service Commission (PSC) had filed an Order to Adopt Final Rules proposing to create ch. PSC 128 relating to the siting of wind energy systems. The proposed rules, if adopted, would provide guidance and limitations to counties for wind energy ordinances, and the County Board of Supervisors found that it would be reasonable and prudent to continue the moratorium so that any ordinance drafted would comply with the PSC rules and the appellate court decision.

Subsequent to the PSC filing its Order to Adopt Final Rules, Calumet County began drafting a Wind Energy Systems Ordinance, using the final draft of PSC 128 filed with the Order to Adopt Final Rules as a guide to drafting an ordinance to replace former Chapter 79, in anticipation that the Final Rules would be adopted and become effective.

The PSC rules went before the Joint Committee for Review of Administrative Rules on February 9, 2011 for a public hearing, and at an Executive Session held on March 1, 2011, the day PSC 128 was to go into effect, the Joint Committee for Review of Administrative Rules voted to suspend PSC 128.

Since PSC 128 has been suspended Calumet County now lacks direction under statute and administrative code on how to draft a wind energy ordinance that will comply with the Appellate Court decision in Ecker Brothers v. Calumet County, and Wisconsin Statutes. Furthermore, the current moratorium is scheduled to expire on April 1, 2011. Calumet County, without an extension of the current moratorium, will be left without a wind energy systems ordinance to protect the health, safety and well-being of its citizens from siting of wind energy systems that may affect the health and safety of its citizens.

Therefore, based upon the foregoing, the Calumet County Board of Supervisors hereby finds that it is in the best interests, health and welfare of the citizens of Calumet County that the Moratorium established on September 21, 2010 be extended for a period of one year, expiring on March 31, 2012, pending further legislative action and adoption of administrative rules.

(History: Ordinance 2005-03, May 17, 2005, Ordinance 2005-02, September 27, 2005, Ordinance 2005-17, December 20, 2005; Ordinance 2006-10, October 30, 2006; Ordinance 2007-08, July 17, 2007, Ordinance 2007-10, September 18, 2007; Ordinance 2007-11 and Ordinance 2007-12, January 15, 2008; Ordinances 2007-15, 2007-16, 2007-18, 2007-19, 2007-20, 2007-23, 2007-24, January 16, 2008; 2007-14, March 18, 2008; 2007-13, March 18, 2008; 2007-21, March 18, 2008; 2007-33, March 18, 2008; 2009-06, July 21, 2009; 2009-11, December 15, 2009; 2009-15, March 16, 2010; 2010-12, September 21, 2010; 2010-16, December 21, 2010; 2010-24, March 15, 2011; 2011-13, February 21, 2012.)

RESERVED

ZONING

Chapter 82

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ARTICLE I. GENERAL

Sec. 82-1. Title.

This chapter shall be known as the “Calumet County Zoning Ordinance.

Sec. 82-2. Authority.

This chapter is adopted pursuant to the authority granted by §§59.70, 59.69, 59.694, 59.696, 59.697, 59.698, and 91.30, Wis. Stats. and all other applicable provision of the Wisconsin Statutes. This chapter shall constitute a comprehensive revision as described in §59.69(5)(d), Wis. Stats., of the 2009 *Calumet County Zoning Ordinance*.

Sec. 82-3. Contents.

This chapter consists of two distinct, but inseparable and integrated parts; written text and zoning maps. The written text and zoning maps, taken together, constitute this chapter. In addition, other maps and materials referenced in the text are used to support this chapter.

Sec. 82-4. Purpose.

The purpose of this chapter is to promote and protect public health, safety, aesthetics, and other aspects of the general welfare; to promote planned and orderly land use development; to protect property values and the property tax base; to prevent overcrowding of the land; to advance uses of land in accordance with its character and suitability; to provide property with access to adequate sunlight and clean air; to maintain the safe and healthful conditions for the enjoyment of recreation; to aid in the protection of groundwater and surface water; to maintain the economic value of water resources; to preserve wetlands; to protect the beauty of landscapes and conserve flora and fauna habitats; to preserve and enhance the County’s rural characteristics; to promote safety and efficiency in the County’s road transportation system; to define the duties and powers of administrative bodies in administering this chapter; and to aid in implementing the County Comprehensive Plan and the County Farmland Preservation Plan.

Sec. 82-5. Compliance.

- (a) *Compliance Required.* No land shall hereafter, be used; and no structure or part thereof, shall hereafter be used, located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this chapter.
- (b) *Municipalities.* Unless specifically exempted by law, all cities, villages, towns, and the County are required to comply with this chapter and obtain all necessary permits in areas under the jurisdiction of this chapter. State agencies are required to comply when s. 13.48(13), Wis. Stats. applies.

Sec. 82-6. Force and Effect.

- (a) *Applicability.* This chapter shall affect the unincorporated areas of Calumet County, or applicable portions thereof, as provided in par. (b), *Effect*.
- (b) *Effect.* Upon enactment by the Calumet County Board of Supervisors, this chapter shall go into full force and effect as follows:
 - (1) *Town Board Approval.* This chapter shall go into effect upon approval by the applicable Town Board and upon filing with the Calumet County Clerk by the applicable Town Clerk a certified

copy of an approving resolution attached to one copy of this chapter, as provided in s. 59.69(5)(c), Wis. Stats. This date shall be referred to as the effective date for that particular town.

- (2) *Comprehensive Revision.* This comprehensive revision provides that the existing zoning ordinance (effective date November 2, 2009), shall remain in effect in a town for a period of up to one year or until the comprehensive revision is approved by the town board, whichever period is shorter. If the town board fails to approve the comprehensive revision within a year neither the existing ordinance nor the comprehensive revision shall be in force in that town.

Sec. 82-7. Abrogation and Greater Restrictions.

- (a) *Greater Restrictions.* Wherever this chapter imposes greater restrictions than other similar regulations, the provisions of this chapter shall govern.
- (b) *Deed Restrictions, Etc.* It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. Calumet County shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.
- (c) *Prior Permits.* It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.

Sec. 82-8. Interpretation and Application.

The provisions of this chapter shall be construed to the minimum requirements. Further interpretation and application of the provisions of this chapter shall take into account the purposes of this chapter and any adverse effects that an interpretation may have upon such purposes.

Sec. 82-9. Severability.

If any section, paragraph, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. If any application of this chapter to a particular structure, land, or waters is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water, not specifically included in said judgment.

Sec. 82-10. Warning and Disclaimer of Liability.

This chapter shall not create a liability on the part of, or a cause of action against, Calumet County or any officer or employee thereof, for any damages that may result from reliance on this chapter.

Sec. 82-11. Vesting of Rights.

No rights to any particular use vest in any property owner simply because the use is permitted by this chapter. Such use may be prohibited by future amendments to this chapter. However, the approval and issuance of a permit shall vest in the property owner the right to use the property in the manner specifically approved by the permit, unless or until the permit expires. No amendment to this chapter, which prohibits a particular use, shall be applicable to any property developed under a previously issued permit, except to that extent that such use is rendered nonconforming.

Sec. 82-12. Definitions.

- (a) *Word Usage.* In the interpretation of this chapter, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:
- (1) *Tense.* Words used or defined in one tense or form shall include other tenses and derivative forms.
 - (2) *Singular and Plural.* Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - (3) *Gender.* The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
 - (4) *Shall.* The word “shall” is mandatory.
 - (5) *May.* The word “may” is permissive.
- (b) *Definitions.* When used in this chapter, the following terms shall have the meanings herein assigned to them. Words used in this chapter, but not defined herein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it.

Abandonment of Nonmetallic Mining Operations: The cessation of nonmetallic mining operations for more than 365 consecutive days where the cessation is not specifically set forth in an operator’s application, operation or Reclamation Plan or permit, or is not specifically approved by the Planning, Zoning, and Farmland Preservation Committee upon written request. Abandonment of operations does not include the cessation of activities due to labor strikes or natural disasters.

Accessory Residence: A dwelling unit that is necessary to a non-residential use on the same lot, is the only dwelling unit on the lot, and provides living quarters for the owner, proprietor, commercial tenant, employee, or caretaker of the non-residential use.

Acoustic: Of, relating to, or being a musical instrument whose sound is not electronically modified. See also Acoustical Instrument, Unplugged. Compare to Electronic Instrument.

Adult Entertainment Establishment: An establishment such as, but not limited to the following:

- (1) **Adult Bath House:** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in “specified sexual activities” as defined in this chapter.
- (2) **Adult Body Painting Studio:** An establishment or business wherein patrons are afforded an opportunity to paint images on a body, which is wholly or partially nude. For purposes of this chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.
- (3) **Adult Bookstore:** An establishment having as a substantial or significant portion of its stock and trade in books, magazines and other periodicals, videos, tapes, and other similar items, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined in this chapter or an establishment with a segment or section devoted to the sale or display of such material.

- (4) **Adult Cabaret:** A nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features persons who appear in a state of nudity or semi-nudity; or live performances that are characterized by “specified sexual activities”; or films, motion pictures, videocassettes, slides or other photographic or computer reproductions or depiction that are characterized by the depiction or description of “specified sexual activities” or “nudity”.
- (5) **Adult Massage Parlor:** An establishment or business with or without sleeping accommodations which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in “specified sexual activity” as defined in this chapter.
- (6) **Adult Mini Motion Picture Theater:** An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this chapter for observation by patrons therein.
- (7) **Adult Modeling Studio:** An establishment or business, which provides the services of modeling for the purposes of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise.
- (8) **Adult Motion Picture Theater:** An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined in this chapter for observation by patrons therein.
- (9) **Adult Novelty Shop:** An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items including movies, tapes, videos, books, etc., which are distinguished or characterized by their emphasis on, or designed for “specified sexual activity” as defined in this chapter or simulating such activity.
- (10) **Outdoor Adult Motion Picture Theater:** A parcel of land from which individuals may view a motion picture presented out of doors, which presents material distinguishably characterized by an emphasis on matter depicting, describing or relating to “specified sexual activity” or “specified anatomical areas” as defined in this chapter.

Agricultural Accessory Use: means any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (2) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (3) A farm residence.
- (4) A business, activity, or enterprise, whether or not associated with an agricultural use that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (1) or (3), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

Agricultural Use: means any of the following activities conducted for the purpose of producing an income or livelihood:

- (1) Crop or forage production.
- (2) Keeping livestock.
- (3) Beekeeping.
- (4) Nursery, sod, or Christmas tree production.
- (5) Floriculture.
- (6) Aquaculture.
- (7) Fur farming.
- (8) Forest management.
- (9) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation program.
- (10) Any other use that the Department of Agriculture, Trade or Consumer Protection, by rule, identifies as an agricultural use.

Agriculture-Related Use: means a facility integral to agricultural use, regardless of whether it is located on a farm that has at least one of the following as a primary and not merely incidental purpose:

- (1) An agricultural equipment dealership.
- (2) A facility providing agricultural supplies.
- (3) A facility for storing or processing agricultural products.
- (4) A facility for processing agricultural waste.
- (5) A facility used for providing veterinary services primarily to livestock, including the sale of supplies and pharmaceuticals related to animal husbandry.

Agricultural Tourism: A use that provides the public with educational or recreational activities that take place on a farm or anywhere agricultural, horticultural, or silvicultural crops are grown or farm animals or fish are raised and allows visitors to tour, explore, observe, learn about, participate in or be entertained by an aspect of agricultural production, harvesting, or husbandry.

Agriculture, Urban: Small scale agricultural activities which are permitted to occur within mixed use hamlet and residentially zoned areas of the county where large tracts of land are not required for management. Examples of urban agriculture include vegetable, flower, herb and spice gardens; raising of fruits, nuts and berries; and specifically, the non-commercial raising and keeping of chickens, rabbits, and bees.

Amplify: To make something louder, especially in the context of a musical or spoken performance.

Amusement Park: A commercially operated facility with various devices for entertainment, which are located primarily outdoors, including miniature golf.

Animal Shelter: A facility for the care and shelter of homeless, stray, or abused animals.

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

Antenna, Building Mounted: Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

Antenna, Ground Mounted: Any antenna with its base placed directly on the ground.

Art: The conscious use of skill, taste, and creative imagination in the production of objects whose primary or sole value is intended to be aesthetic. Art is distinct from other forms of production by the application of a personal, un-analyzable creative power, not merely expertness in workmanship.

Art Gallery: An institution or business exhibiting or dealing in works of art.

Auto Sales and Service Lot: Any establishment where more than 3 automobiles are displayed for sale at any time, or where more than 3 automobiles are sold in any calendar year.

Bed and Breakfast Establishment: Any place of lodging that provides 4 or fewer rooms for rent to transient guests, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

Bluff: Land with a slope of 20% or more where the construction grade is 50 feet or higher above the surface water elevation if adjacent to surface water, or, 50 feet above the base of the bluff if not adjacent to surface water. For purposes of this chapter, a bluff is not an escarpment.

Boarding House: A place in which lodging, with or without meals, is offered for compensation to non-transient guests, that provides 4 or fewer rooms for rent, is the owner's personal residence, and is occupied by the owner at the time of rental.

Building: An enclosed structure, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and which is affixed to the ground.

Building, Accessory: A building, not attached to a principal building by means of a common wall, common roof, or an enclosed breezeway, which is:

- (1) Subordinate to and serves a principal structure or a principal use.
- (2) Located on the same lot as the principal structure or use served.
- (3) Customarily incidental to the principal structure or use.

Building, Principal: A building, which houses a principal use of a lot, including any functional appurtenances, such as decks, stairways, and balconies, which are attached to, or located within 4 feet of said building.

Building Site: A lot on which buildings or structures that are permitted in the applicable zoning district may be placed.

Building Zone: The area of a lot between the required road setback line (or front yard line) and rear yard line (or navigable water setback line).

Campground: Any parcel or tract of land owned by a person, the State, or a local government unit which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or by 1 to 3 camping units if the parcel or tract of land is represented as a campground.

Camping: The placement of a temporary shelter used as, or designed to be used for sleeping purposes. Examples of shelters used for camping includes tents, trailers, motor homes, recreational vehicles. For purposes of this chapter, the use of a camping unit, located in the rear yard of a lot occupied by a single family residence, owned and utilized for not more than 30 days in any 1 calendar year, by residents of the single family residence on the lot, shall not be deemed camping.

Camping Party: Any individual or camping family or group consisting of not more than 6 persons who are 7 years of age or older provided that such individual, family, or group is engaging in camping.

Camping Unit: Any single temporary shelter, except sleeping bags, bed rolls, and hammocks, used for camping by a camping party.

Camp Site: A segment of a campground, which is designated for camping by a camping party.

Cemetery: Land used for burial of dead humans, and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. It is not the intention of this chapter to regulate private burials on private property that are completed in compliance with Administrative Code DHS 135.06 or Ch. 157, Wis. Stats.

Cessation: The act of causing to stop, interrupt, pause, terminate, or end operations or activities.

Change of Use: Conversion of the principal use of a lot from one use to another use.

Class 1 collocation: Means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

Class 2 collocation: Means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

Clearing: The act of removing trees from any part of woodland for the purpose of building development or creation of non-wooded areas.

Code Administrator: An authorized representative of the Planning, Zoning and Land Information Department hired by Calumet County for the purpose of carrying out the terms of this chapter.

Commercial Speech: Speech which promotes at least some type of commerce and in which there is a governmental interest in regulating the speech in a reasonable manner to preserve the purpose and intent of this ordinance.

Commercial Vehicle: Any motor vehicle or trailer typically used for business, industrial, office or institutional purposes or having painted thereon or affixed thereto a sign identifying a business, industry office of institution or a principal product or service of such.

Community Living Arrangement: A facility defined as such in s. 46.03(22), Wis. Stats. and regulated in Section 59.69(15) of Wisconsin Statutes.

Conditional Use: A use allowed under a conditional use permit, special exception, or other special zoning permission issued by the County, but does not include a variance.

Conditional Use Permit: A permit, issued by the Planning, Zoning, and Farmland Preservation Committee, or their designee, stating that a use permitted as a conditional use may be established, expanded, or enlarged subject to any conditions placed on the authorization and the provisions of this chapter.

Daycare Center: A facility, licensed by the Wisconsin Department of Children and Families, which provides supervision and care and/or instruction for 4 or more children under the age of 7 for periods of less than 24 hours per day and operated on a regular basis.

Deck: An unenclosed, unroofed exterior platform structure, with or without railings, which is elevated above preconstruction grade, is typically of wood construction, attached to either a building or free-standing.

Density: The number of residential units in a given land area.

Development Regulation: Means that part of this ordinance that applies to elements including setback, height, lot coverage or impervious surface, and side yard.

Driveway: A means of access to or from a property, site, or use; or a means of circulation within a parking area.

Duplex: Two attached dwelling units on a single lot regardless of the form of ownership of the units. In the Heartland and Small Estate zoning districts, a duplex shall be considered one dwelling unit for purposes of density calculations only.

Dwelling Unit: A building or portion thereof, which provides or is intended to provide living quarters exclusively for one family. In the Heartland and Small Estate zoning districts, a duplex shall be considered one dwelling unit for purposes of density calculations only.

Dwelling Unit, Single Family: A freestanding building, which provides or is intended to provide living quarters exclusively for one family, except dwelling units that meet the definition of a manufactured home.

Electronic Instrument: Any musical instrument where the sound is produced or modified by electronic means.

Electronic Message Center: Any sign that by electronic means conveys a message or advertises a product or service and changes the message from one message to another message.

Entertainment Facility: A commercial operation whose primary purpose is to provide entertainment to large groups of people in a confined area. Examples of entertainment facilities include, but are not limited to, amphitheaters, pavilions or fenced patio areas that accommodate live performances, and

rooms separate from the main serving area in taverns or restaurants. For purposes of this chapter, adult entertainment establishments are not considered an Entertainment Facility.

Equipment Compound: An area surrounding, or adjacent to, the base of an existing support structure for a mobile service facility.

Escape Balcony: A horizontal platform affixed to the exterior wall of a structure which is readily accessible from an upper story door or window and which serves as a place from which rescue can be achieved in the event of fire or similar hazard with the structure.

Escarpment: A discontinuous bedrock-controlled, geomorphologic feature composed of any and all outcrops that form a ridge or series of ridges at the bedrock surface along the western edge of the Silurian outcrop belt. In Calumet County it is typically recognizable as a steep slope, or series of cliffs or steep slopes, which face in one general direction, breaks the continuity of the land by separating two comparatively level or more gently sloping surfaces, and is produced by erosion or by faulting.

Expansion: Any structural modification, which increases the existing structure's floor area or footprint. In terms of use, expansion shall be deemed the intensification or addition of services or operations beyond the legal use in existence at the effective date of this chapter or as legally permitted by this chapter.

Fall Zone: The area over which a mobile support structure is designed to collapse.

Family: A person or group of persons living together as a single housekeeping unit.

Family, Camping: A parent or parents with their dependent children and not more than two guests. This definition is to be used for camping related purposes only.

Family Daycare Home: A dwelling unit where supervision and care and/or instruction for not more than 8 children under the age of 7 is provided for periods for less than 24 hours per day, and which is licensed by the Wisconsin Department of Children and Families.

Farm: All land under common ownership that are devoted primarily to agricultural use, including all appurtenant structures and which produces annually at least \$6000 in gross farm revenue. A farm includes all contiguous land, regardless of a location of a public road right-of-way or navigable body of water, under common ownership that is primarily devoted to agricultural use.

Farm Consolidation: The joining together of all or part of 2 or more farm operations, which were in existence before the adoption or amendment of this ordinance, into a single farm operation.

Farm Market: A use, building or structure, which principally involves the retail sales of farm and garden products, regardless of whether such products were produced on the premises.

Farm Related Residence: A dwelling unit on a farm to be occupied by a person who, or a family in which at least 1 member, earns more than 50 percent of his or her gross income from the farm operations on the parcel, is the owner or operator of the farm, or is a parent or child of the owner or operator of the farm. A migrant labor camp certified under §103.92, Wis. Stats., shall also be considered a Farm Related Residence.

Fence: A barrier intended to prevent escape or intrusion, or to mark a boundary. A fence does not include a railing serving a deck, porch, balcony, or similar items.

Fence, Closed: A fence whose entire length is more than 50% opaque and whose individual elements or sections are also greater than 50% opaque.

Fence, Open: A fence whose entire length is equal to or not greater than 50% opaque and whose individual elements or sections are also equal to or not greater than 50% opaque.

Floor Area: The sum of the gross horizontal areas of the several floors of the building, measured from the outer lines of the exterior walls of the building, except that the floor area of a dwelling does not include space not useable for living quarters, such as attics, unfinished basement rooms, garages, carports, breezeways, and unenclosed porches or terraces.

Floor Area, Primary: The floor area of a building for purposes of determining required parking ratios for certain uses, such area to include only that portion of the total floor area devoted to customer service, sales and office space and not to include warehouses, utility, hallways and other accessory space, except as they generate parking demand.

Footprint, Building: A single horizontal plane bounded by the exterior walls of a building.

Foundation: A permanent structural system used to transfer the weight of the building to the earth that may include one or more components such as footings, piers, columns, slabs and walls.

Freight Terminal: A location where goods or produce are transported, generally for commercial gain, by ship, aircraft, train, van or truck.

Fresnel Zone: A number of concentric ellipsoids of revolution, which define volumes in the radiation pattern of a (usually) circular aperture. Fresnel zones result from diffraction by the circular aperture. The cross section of the first Fresnel zone is circular. Subsequent Fresnel zones are annular in cross section, and concentric with the first. A Fresnel zone is created in a microwave radio path.

Frontage. The linear dimension of a lot abutting a road measured along the right-of-way line.

Funeral Home: An establishment, occupied by a professional licensed mortician, with facilities for burial preparation or cremation and funeral services.

Garage: An accessory structure (except for public highway garages) primarily intended for and used for the enclosed storage or shelter of motor vehicles.

Grade Elevation: The average elevation around the base of a building or structure where such building or structure meets the surface of the ground.

Gross Farm Revenue: Gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year.

Height: The distance measured from the finished grade elevation at the base of the structure to the highest point of the structure.

Historic Building: A building which is one of the following:

- (1) Listed on, or nominated by the State Historical Society for listing on, The National Register for Historic Places in Wisconsin;

- (2) Included in a district which is listed on, or nominated by the State Historical Society for listing on, The National Register For Historic Places in Wisconsin and which has been determined by the State Historical Society to contribute to the historic significance of the district;
- (3) Listed on a certified municipal register of historic properties; or
- (4) Included in a district which is listed on a certified municipal register of historic property, and which has been determined by the municipality to contribute to the historic significance of the district.

Home Artisan: A resident of the premises that grows or creates a product as a hobby, and offers that product to the public for sale. Examples of Home Artisans are the person who works full or part time and as a hobby grows and sells flowers, canned goods, or creates and sells arts and crafts.

Home Business: A business conducted on the same lot as, and in conjunction with, the primary residence of the operator. Home businesses shall employ no more than 1 person not a resident of the premises. Examples include trade or contractors establishments (such as plumbing, heating and air conditioning, excavating, general carpentry and woodworking and craftsmanship, liquid waste hauling, painting, electrical, and well drilling), veterinary offices, automotive and Farm Implement Sales & Service, repair shops, horse and buggy repair, tack repair, upholstery, and picture framing. The list of examples is not intended to be exhaustive.

Home Occupation: A business, profession, occupation, or trade which is conducted for gain or support, located entirely within a principal dwelling unit, operated by at least 1 person residing in the dwelling unit, and is accessory, incidental, and secondary to the use of the building as a residence and does not change the essential residential character or appearance of the dwelling unit. Examples of home occupations include **home artisans**, barber/beauty shops, canning, tailoring, and professional home offices. Traveling in-home dealerships and other types of traveling in-home sales, which do not result in the public coming to the dealers home shall not be considered home occupations and shall be exempt from this chapter.

Hotel: A building containing lodging rooms, a common entrance lobby, halls, and a stairway; where each lodging room does not have a doorway opening directly to the outdoors, except for emergencies, and where more than 50 percent of the lodging rooms are for rent to transient guests, with or without meals, for a continuous period of less than 30 days.

Impervious Surface: Surfaces which do not absorb precipitation including buildings, structures, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, or packed stone. For purposes of this chapter, impervious surfaces buried within 2 feet of the ground surface shall still be deemed impervious surfaces. Impervious surfaces shall not include natural stone or rock in its original, pre-land disturbance, environmental location.

Impervious Surface Ratio: A measure of the intensity of use of a parcel of land determined by dividing the total area of all impervious surfaces within the site by the total area of the site.

Inoperable Vehicle: Any motor vehicle or recreational equipment, such as a snowmobile, all-terrain vehicle or boat, which lacks a current registration, or 2 or more wheels, or track, or any other component part, which renders the vehicle illegal for use on or unable to be operated on public roads or public trails or navigable water.

Institutional Residential: Convents, monasteries, sheltered care facilities, nursing homes, and protective living facilities where the residents live in an institutional environment. The residents may be members of an institution, or would have institutional care, or would be treated by staff.

Institutional Recreation Camp: An area containing 1 or more permanent buildings used periodically for the accommodation of members of associations or groups for recreational purposes.

Junk Material: Any material or object that is broken, deteriorated, inoperable, worn out, or in such condition as to be generally unusable in its present state for its original purpose and that has been collected or is stored for conversion to some other use or for destruction or salvage. Any material or object that can be used for its original purpose as readily as when new without being altered, changed, or reconditioned is not considered junk. Junk materials include, but are not limited to, building supplies, cardboard, fabric, glass, metal, organics, paper, plastic, rubber, synthetics, and wood. Junk objects include, but are not limited to, appliances, automobiles, batteries, furniture, implements, machinery, tools, trailers, trash, used tires (including used tires that are holding down covers over hay or straw if the sidewalls of those tires have not been cut to provide drainage), and vehicles. Junk also includes debris, garbage, refuse, trash, waste, and other material and objects commonly designated as junk. However, nothing in this ordinance is intended to prohibit the storage of idle but operable farm equipment.

Karst: An area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include areas with soils less than 60 inches thick over bedrock, caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, and depressional areas with no surface drainage.

Kennel: A kennel is any establishment wherein or whereon 5 or more dogs over the age of 5 months are kept for breeding, sale, or sporting purposes, or where boarding care is provided for compensation. In the Small Estate, Single Family Residential-20,000, Single Family Residential-10,000, High Density, Mixed Use Commercial, Recreational Commercial, and Commercial Center districts the housing of 4 or more dogs is prohibited.

Land Disturbance: Any filling, grading, dredging, excavating or similar activity, which alters the surface of a site for the purpose of preparing a site, for development, creating ponds, or altering the topography of a site. Activities, which meet the definition of nonmetallic mining or solid waste facility, shall not be considered as a land disturbance.

Landing: A horizontal platform, the purpose of which is to provide a turn or resting place in a stairway.

Livestock: Any horse, bovine, sheep, goat, pig, domestic rabbit or domestic fowl, including game fowl raised in captivity.

Living Quarters: A building or a portion of a building, which provides as a minimum, an area equipped or furnished for sleeping purposes. Living quarters also include those finished portions of a building in which normal residential activities occur.

Loft: An upper room in an accessory structure, directly under the roof, used for storage. A loft covers only a portion of the lower floor area, leaving one or more sides open to the lower floor. For the administration of this chapter a loft and attic are synonyms

Lot: A continuous parcel of land, not divided by a public road right-of-way, occupied or intended to be occupied by a principal structure or use and the accessory structures or uses permitted thereto, and sufficient in size to meet the lot width and lot area provisions of this chapter. For purpose of this

chapter, the terms “parcel”, “tract” “property”, and other similar terms shall be used interchangeably for the term “lot”.

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lot lines of a lot, but not including the area of any land below the ordinary high water mark of navigable waters.

Lot Line: A line bounding a lot, which divides 1 lot from another lot or from a street or road.

Lot Line, Front: A lot line nearest to the centerline of the public or private road from which the lot takes access.

Lot Line, Rear: In the case of rectangular or most trapezoidal shaped lots, that lot line that is generally parallel to and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: Any lot, the description of which is properly recorded with the Calumet County Register of Deeds, which at the time of its recordation complied with all applicable laws, chapters, and regulations.

Lot Width: The horizontal distance of a line, which connects 2 side lot lines, runs through the building zone of the lot, and is perpendicular to the line bisecting the angle formed by the side lot lines. For lots with parallel side lot lines, the lot width is the perpendicular distance between the side lot lines.

Loudspeaker: Any of various devices, usually electronic, that changes electrical signals into sounds by which speech, music, etc., can be intensified and made audible throughout a room, hall, or the like.

Maintenance and Repair: General activities or actions necessary to continue or restore the safe and healthy use of a land feature or structure which has been damaged or has deteriorated through natural processes, aging or wear, and which does not involve structural alterations or structural repairs to the structure. Activities that are under official orders to correct a health or safety violation, shall also be considered maintenance and repair.

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

Manufactured Home Park: Any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for more than 2 manufactured homes on a year-round basis and shall include all buildings, used or intended for use as part of the equipment thereof, whether or not a charge is made for use of the manufactured home park and its facilities. Manufactured home parks shall not include automobile or manufactured homes sale lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

Marina: A place for docking or storage of pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats, sale of supplies or fuel, or provisions of food, beverages, and entertainment at on-shore facilities.

Meteorological Tower: A tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. Also, referred to as a MET tower.

Mining Site Enlargement: Any horizontal increase beyond dimensions of the original application for the project site.

Mobile Service: means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: (A) both one-way and two-way radio communication services; (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and, (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled “Amendment to the Commission’s Rules to Establish New Personal Communications Services” (GEN Docket No. 90–314; ET Docket No. 92–100), or any successor proceeding. [See 47 USC 153(33)].

Mobile Service Facility: The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

Mobile Service Provider: A person who provides mobile service.

Mobile Service Support Structure: A freestanding structure that is designed to support a mobile service facility.

Mobile Tower Permit: A permit, other than a building permit, or approval issued by the County which authorizes any of the following activities by an applicant:

- (1) class 1 collocation;
- (2) class 2 collocation; or,
- (3) construction of a mobile service support structure.

Model Home: A single family dwelling unit, which is used as a model for inspection by prospective home buyers and is unoccupied as a residence, but is intended for eventual use as a single family residence and which may or may not contain a home sales office.

Motel: A building or group of buildings containing rooms, which are offered for compensation for the temporary accommodations of transient lodging that has individual entrances from outside the building to serve each sleeping unit where there is no permanent occupancy of any such unit except by the owner or the motel manager.

Multiple Occupancy Development: A development on a single lot wherein a building is provided with 3 or more occupancy units, or wherein 2 or more detached buildings are provided with 2 or more occupancy units, regardless of the characteristics of the user(s) of the occupancy units and regardless of the ownership of the building or buildings or of the occupancy units; or a single family dwelling unit or duplex under interval ownership (time share), in which any or all of the occupants reside for a continual period of 30 days or less.

Natural Feature: A geologic formation, vegetative area, or other feature of the landscape, which is protected by regulations in this chapter.

Noncommercial Speech: Speech other than commercial speech. Speech that is related to core elements of free speech such as those relating to artistic expression, political, social and religious matters.

Nonconforming Lot: A single parcel that was legally recorded with the Register of Deeds prior to the date that the town in which the parcel is located initially adopted this Chapter. A lot legally created prior to the adoption of this chapter but after November 2, 2009 for the purpose of creating a building site for a residence utilizing density or a conditional use permit for a nonfarm residence under the Base Farm Tract System is not considered a nonconforming lot.

Nonconforming Structure: A dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted or amended, but does not conform with one or more of the development regulations in this current zoning ordinance.

Nonconforming Use: A use of land, a dwelling, or a building that existed lawfully before this current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.

Nonfarm Residence: A single family residence other than a farm related residence.

Nonmetallic Mining/Nonmetallic Mining Operation:

- (1) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include 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.
- (2) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

Nonmetallic Mining Refuse: Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.

Nonmetallic Mining Site: The location where a nonmetallic mining operation is conducted or is proposed to be conducted, including all surface areas from which minerals are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited, and areas disturbed by the

nonmetallic mining operation by activities such as the construction or improvement of roads or haul ways.

Occupancy Unit: A room, or interconnected rooms, consisting of living quarters physically separated from any other unit in the same building. The unit may include facilities for cooking, eating, and other facilities convenient to human living.

Open Space: Area on a lot that is open to the sky, contains no structures, parking, driveways, or other impervious surfaces, and contains no nonmetallic mining uses. (See also Open Space, Preserved.)

Open Space, Preserved: Open space, which has been permanently preserved in conjunction with a planned residential development or manufactured home park.

Operation: As it relates to towers, antennas, transmitters, and renewable energy systems, other than nominal use; when a facility is used regularly as an integral part of an active system, it shall be deemed in operation.

Personal Service Establishment: A use which is any of the following: clothing and shoe repair or rental shops, barber/beauty shops, portrait/photography studios, home appliances or electronic repair shops, tanning salons, travel agencies, fitness centers, or related uses. The list of examples is not intended to be exhaustive.

Personal Transport Vendor: An individual who transports persons for hire by means of horse and buggy or carriage, bicycle, tricycle and cart, or similar means. Personal transport vendors do not include drivers of such items as planes, buses or automobiles.

Planned Residential Development: An area of land, controlled by a developer, to be developed as a single entity for more than 1 dwelling unit, the plan for which does not necessarily comply with the various dimensional and locational requirements for the zoning district in which it is located, but in which each dwelling unit is located on its own lot. Planned residential developments are often referred to as “cluster developments” or “conservation developments”.

Pound: An enclosure for 2 or more stray, unlicensed, or unwanted animals. Pound services include the collection, care, and disposing of animals.

Prime Farmland: An area with a class I or II land capability classification as identified by the Natural Resources Conservation Service of the Federal Department of Agriculture, or, land, other than land described first herein, that is identified as prime farmland in the certified *Calumet County Farmland Preservation Plan*.

Processing Plant: A food manufacturing facility, which starts with raw foodstuffs to produce more satisfactory or desirable food products.

Public Boat Launching Facilities: Facilities which provide access to navigable water for boats and other recreational craft, available to the general public, with or without support services, whether owned or operated by a governmental entity or not.

Reclamation: The rehabilitation of a nonmetallic mining site, including, but not necessarily limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

Recreation Camp: See Institutional Recreation Camp.

Renewable Energy Facilities: One or more mechanical systems which captures and converts, or generates, energy that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

Renewable Energy Facilities, Non-Commercial: A renewable energy facility whose main purpose is to supply energy to a home, business or other use on the same lot as the renewable energy facility.

Residence: The use of premises for the act or fact of dwelling.

Residence, Single Family: The use of premises for the act or fact of dwelling in a single family dwelling unit. Structures which are delivered to the site in halves or other modular arrangements (consisting of complete wall sections) or large units fabricated off premise by the manufacturer of the basic unit and designed and intended to be attached to the basic unit and which when joined together exceed 18 feet in width throughout, meet minimum floor area requirements of this chapter, have a length to width ratio of not more than 2.5 to 1, and which are placed upon a permanent foundation, are considered single family residences or single family dwelling units.

Resource Recovery Facility: An establishment where refuse is processed and converted to energy.

Retreat Center: An establishment providing a place where 6 or more people stay overnight for a period of withdrawal for prayer, meditation, study, and/or instruction. Retreat Centers are not schools, bed and breakfast establishments, motels, hotels, private residences, or other similar land use establishments.

Riding Stable, Commercial: Any establishment where horses are kept for riding or recreation by the public, or where horses are stabled for compensation, sale, or where the stable is used to showcase the horses in an organized event.

Roadside Stand: A use or structure involving only the display and sale of agricultural products, which are produced exclusively on the premises.

Salvage Yard: Any land or structure where waste or scrap materials including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, glass, and inoperable vehicles or appliances, are either stored, stockpiled, bought, sold, exchanged, bailed, packed, disassembled, or hauled.

Search Ring: A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors, including topography and the demographics of the service area.

Setback: The minimum horizontal distance from areas such as the centerline of a road; from the edge of the right-of-way of a road, including all points on the arc of the radius of the right-of-way, if applicable; from the ordinary high water mark; from where a bluff plateau meets a bluff slope; or from a property line; to a structure or use.

Sign: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify a person or entity, or to communicate

information of any kind to the public and which is intended to be visible from any road or from navigable water.

Sign, Abandoned: A sign which advertises a use that has ceased, or relates to an individual, firm, or association, profession, business, commodity, or product that no longer exists, or relates to an activity or purpose that is no longer applicable.

Sign, Directional: An off-premise sign intended solely for the purpose of directing people to an establishment that is not located on a State highway.

Sign Face Area: The entire surface area of a sign display face upon which copy could be placed; or, if no background or frame, the total area of the smallest rectangle or rectangles, which can encompass all words, letter, figures, emblems, and any other element of the sign's message. When a sign has more than 1 display face, the combined surface area of all display faces that can be viewed simultaneously shall be considered the sign face area.

Sign, Off-Premise: A sign, which is not located on the lot on which the individual, firm, association, corporation, profession, business, commodity, or product promoted on the sign, is located.

Sign, On-Premise: A sign located on the same lot on which the individual, firm, association, corporation, profession, business, commodity, or product promoted on the sign is located.

Sign, Projecting: A sign, generally oriented perpendicular to the face of a building wall, which is attached to a building and which extends more than 6 inches from a building wall, typically having 2 viewable sides.

Sign, Wall: A sign affixed to or painted on a building wall and all other signs, oriented parallel to the face of a building wall, which are attached to a building wall and where no part of the structure of the sign extends more than 6 inches out from a wall as measured from the nearest points of attachment to the building nor above the roof of the building, nor beyond the end of a wall.

Sinkhole: Any depression or opening in the ground surface through which gathered surface water enters bedrock and eventually joins groundwater.

Sinkhole Channel: A linear depression in the ground surface through which water flows, intermittently or continuously, into a sinkhole depression or sinkhole opening.

Sinkhole Channel Cross-Sectional Area: The amount of surface of a 2-dimensional vertical plane within a sinkhole channel positioned perpendicular to the centerline of the sinkhole channel. The uppermost extent of the plane shall be a line extending between two associated sinkhole channel edges.

Sinkhole Depression: A depression in the ground surface through which gathered surface water enters the underlying bedrock and eventually joins groundwater.

Sinkhole Opening: An opening in the uppermost surface of bedrock through which gathered surface water enters the bedrock and eventually joins the groundwater.

Site Area: The total area devoted to a planned residential development or a manufactured home park development.

Site Plan Review: A procedure whereby anticipated negative effects of a use or development are ideally mitigated prior to its establishment through negotiation in order to ensure that the use or development is compatible with surrounding uses.

Slope: The relationship of the change in vertical distance to the change in horizontal distance, expressed as a percentage.

Solid Waste Facility: A facility or land for solid waste treatment, solid waste storage, or solid waste disposal and includes commercial, industrial, municipal, State and Federal establishments or operations such as, without limitation because of a numeration, sanitary landfills, dumps, incinerators, land disposal sites, coal ash disposal, transfer stations or facilities, waste storage facilities, collection and transportation services and processing, and waste separation and recycling collection facilities. A solid waste facility does not include a salvage yard.

Stairs: A series of narrow horizontal platforms 4 feet or less in width and 16 inches or less in depth, arranged in an elevated vertical position or vertical slope so as to provide ingress or egress to a structure or to traverse rocky, wet or steep terrain, or to access the shore, pier or wharf.

Structural Alteration: Any change in the supporting members of a building or structure, such as foundations, load bearing wall columns, sill, and rafters, or any change in the dimensions or configuration of the roof or exterior walls.

Structural Repairs: Any repairs of the supporting members of a building or structure, such as foundations, load bearing wall columns, sill, and rafters.

Structure: Anything constructed, erected, manufactured, or moved, the use of which requires a more or less permanent location on or in the ground.

Structure, Accessory: A building or other structure which is customary, incidental, and subordinate to a permitted principal use of a lot and located on the same lot as the principal use, and does not meet the definition of a principal structure. Accessory structures do not include items such as boats, truck bodies, semi-trailer boxes, manufactured homes, buses, railroad cars and trailers.

Structure, Enclosed: A structure consisting of a solid roof, a permanent foundation, a floor, and solid walls extending from the floor to the roof. Solid doors, windows, or other glazing are allowed in the wall segments. Open breezeways or screen walls do not qualify as enclosed structures.

Structure, Existing: A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the County.

Structure, Permanent: A structure placed on or in the ground or attached to another structure in a fixed position and intended to remain in place for a period of more than nine months.

Structure, Principal: A building or other structure, which houses the principal use of the lot, including any functional appurtenances, such as decks, stairways, and balconies, which are attached to, or are located within 4 feet of, said building or structure.

Substantial Evidence: Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of conclusion.

Substantial modification: The modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:

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

Support structure: An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

Tiny Home: A dwelling that is 400 square feet or less in floor area excluding lofts.

Total Farm Area: All contiguous parcels zoned EA in common ownership at the time the owner(s) first create a new lot or parcel for residential use. Joint ownership parcels may be included in the total farm area if partially owned or owned jointly by the owner of the farm. If joint ownership is the basis for a new residential lot, all landowners must sign the application at the time of the rezone. All signatures shall be notarized.

Trade and Contractor Establishment: Uses such as plumbers, heating and air conditioning contractors, excavators, carpenters, painting contractors, waste water treatment system contractors, electricians, well drillers, and similar uses. A trade and contractor establishment differs from a home business in that the trade and contractor establishment is the primary use of the property and is not limited in the number of persons employed.

Trailer: A portable structure built on a chassis which can be towed by an appropriate motor vehicle and is designed to be used as a temporary dwelling for travel, recreation, or vacation use, and which does not fall into the definition of a manufactured home.

Trailer Camp: Any privately or publicly owned parcel or tract of land designed, maintained, intended, or used for the purpose for supplying accommodations for use by trailer or recreational vehicles on a temporary basis, open to the public and designated as a trailer camp area.

Transfer Station or Facility: A solid waste facility at which transferring of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transporting to the point of processing or disposal.

Transient: A person who travels from place to place away from his or her permanent address for vacation, pleasure, recreation, culture, or business.

Transient Lodging: A commercial lodging establishment, which rents sleeping quarters or dwelling units to transient guests for periods of less than 30 days.

Unincorporated Area: All lands and waters located within Calumet County, which are located outside the municipal boundaries of a village or city.

Use, Accessory: A use subordinate to and customarily incidental to a permitted principal use of a lot and located on the same lot as the principal use.

Use Consistent with Agriculture: Any activity that will not:

- (1) convert land that has been devoted primarily to agricultural use.
- (2) limit the surrounding land's potential for agricultural use.
- (3) conflict with agricultural operations on the land subject to a farmland preservation agreement or with agricultural operations on other properties.

Use, Principal: A basic use of a lot or structure, or one of the basic uses of a lot or structure where more than one basic use exists on a lot.

Use, Temporary: Unless permitted, a longer duration by this chapter or by conditions of a permit, a use which is conducted for not more than 7 consecutive days nor more than 10 days in any 1 year period.

Utility Facilities – Type A: Any structure or equipment, except for communication towers and wind energy facilities, used or designed for the production, transmission, delivery, or furnishing of heat, electricity, light, water, power, sewer services, or telecommunications either directly or indirectly to or for the public, where the land area bounded by the location of such structure or equipment is 1,000 square feet or less. Private solar arrays on residential properties are considered Type A Utility Facilities.

Utility Facilities – Type B: Any structure or equipment, except for communication towers and wind energy facilities, used or designed for the production, transmission, delivery, or furnishing of heat, electricity, light, water, power, or sewer services, or telecommunications either directly or indirectly to or for the public, where the land area bounded by the location of such structure or equipment is more than 1,000 square feet. Commercial solar arrays with the primary purpose of supplying power to the utility electrical grid are considered Type B Utility Facilities.

Utility Pole: A structure owned or operated by an alternative telecommunications utility, as defined in Wis. Stat. §196.01(1d); public utility, as defined in Wis. Stat. §196.01(5); telecommunications utility, as defined in Wis. Stat. §196.01(1); political subdivision; or cooperative association organized under Wis. Ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wis. Stat. §182.017(1g)(cq); for video service, as defined in Wis. Stat. §66.0420(2)(y); for electricity; or to provide light.

Variance (Area): A modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the Board of Adjustment.

Walkway: An unenclosed, unroofed exterior platform structure, with or without railings, not exceeding 4 feet in width.

Waste Separation and Recycling Collection Facility: A system of containers, equipment or other structures used to collect source separated newsprint, aluminum, glass or plastic for the purpose of recycling.

Wharf: A structure used for docking watercraft or for loading and unloading cargo or passengers and is parallel to the shoreline.

Wetland: Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Wind Energy System: A system as defined and regulated in Wis. Stat. 66.0401 and Chapter 79, Wind Energy Systems of the Calumet County Code.

Yard: A required area on a lot, unoccupied by buildings and open to the sky, extending along the lot line to a specified depth or width.

Yard, Front: A yard extending along an entire front lot line from the front lot line to the depth or width as specified in the yard requirements for the applicable district.

Yard, Rear: A yard extending along an entire rear lot line from the rear lot line to the depth or width as specified in the yard requirements for the applicable district.

Yard, Side: A yard extending along an entire side lot line from the side lot line to the depth or width as specified in the yard requirements for the applicable district.

Zoning Permit, Regular: A permit, issued by the Code Administrator, stating that a use or a structure or sign; or use permitted as a conditional use, may be established, expanded or enlarged subject to any conditions placed on the permit and the provisions of this chapter.

Sec. 82-13 - Sec. 82-18. Reserved.

ARTICLE II. ZONING DISTRICTS AND ZONING MAPS; USE REGULATIONS

Sec. 82-19. Zoning Districts.

For the purpose of this chapter, the unincorporated areas of Calumet County are divided into the following zoning districts:

- | | |
|-----------------------------------------------|---------------------------------------------|
| (a) Exclusive Agricultural (EA) | (i) Single Family Residential-20,000 (SF20) |
| (b) Exclusive Agricultural Preservation (EAP) | (j) Single Family Residential-10,000 (SF10) |
| (c) General Agricultural (GA) | (k) High Density Residential (HD) |
| (d) Heartland (HL) | (l) Mixed Use Commercial (MC) |
| (e) Small Estate Residential (SE) | (m) Commercial Center (CC) |
| (f) Agricultural Residential (AR) | (n) Industrial (I) |
| (g) Wetland Overlay District (W) | (o) Light Industrial (LI) |
| (h) Natural Area (NA) | |

Sec. 82-20. Zoning Maps.

- (a) *District Locations.* Zoning districts shall be bound and defined as shown on zoning maps prepared for each town. The zoning maps shall be entitled, *Zoning Maps of Calumet County*.
- (b) *Interpretation of Zoning District Boundaries.* The following rules shall be used to determine the precise location of zoning district boundaries shown on the *Zoning Maps of Calumet County*:
- (1) *Corporate Limits.* Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.

- (2) *Roads*. Boundaries shown as following or approximately following roads shall be construed as following the centerlines of such roads.
- (3) *Lot Lines*. Boundaries shown as following or approximately following private lot lines or other property lines as shown on maps prepared by the Calumet County Planning, Zoning and Land Information Department, shall be construed as following such lines.
- (4) *Waterways*. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other watercourses shall be construed as following the centerline of such watercourses. In the event of a natural change and location of such watercourses, the zoning district boundaries shall be construed as moving with the centerline.

Sec. 82-21. Types of Uses.

- (a) *Principal Uses*. These uses are sorted and assigned to specific zoning districts, per Article IV, Zoning *District Requirements*. Such uses shall be established only if they are located in the zoning district to which they are assigned. These uses are further divided into the following 3 categories:
 - (1) *Permitted Uses*. These uses are permitted by right, provided all requirements of this chapter are met.
 - (2) *Permitted Uses Subject to the Site Plan Review Process*. These uses are permitted by right, provided all requirements of this chapter are met. However, the site design to accommodate the use shall be subject to the site plan review procedure described in Sec. 82-134, *Site Plan Review*.
 - (3) *Uses Permitted as Conditional Uses*. These uses are not permitted by right; rather, the allowance is subject to the discretionary judgment of the Planning, Zoning and Farmland Preservation Committee, as described in Sec. 82-133, *Conditional Use Permits*.
- (b) *Accessory Uses*. Accessory uses are permitted in all zoning districts as accessory to an existing permitted principal use. All accessory uses must be common and typical to the permitted principal use.
- (c) *Temporary Uses*. Uses which are conducted for not more than 7 consecutive days, nor more than 10 days in any 1 year period, shall be known as temporary uses.
 - (1) *Permit*. Temporary uses shall not require a regular zoning permit.
 - (2) *Setbacks*. Temporary uses shall meet all setback and yard requirements of this chapter.
 - (3) *Structures*. Temporary uses shall not involve the construction or alteration of any permanent structure.
- (d) *Uses Not Listed*. A proposed use that cannot be classified as a listed principal use shall be considered an unclassified use. The Planning, Zoning and Land Information Department Director, upon referral and recommendation by the Code Administrator, shall determine if the proposed unclassified use is similar to other uses listed for the zoning district applicable to the site of the proposed unclassified use. If there is no similar determination, the Director may refer unclassified uses to the Planning, Zoning and Farmland Preservation Committee for processing in the form of a Conditional Use Permit application.

Sec. 82-22 - Sec. 82-27. Reserved.

ARTICLE III. GENERAL REQUIREMENT

Sec. 82-28. Compliance.

- (a) No lot shall hereafter be created or altered which does not fully comply with the requirements of this chapter including width, frontage, area, ratio and density requirements of this chapter, except;
 - (1) Remnant lots created as result of a farm consolidation.
 - (2) Lots created for Utility Facilities under 82-77(b)

Sec. 82-29. Zoning District Requirements.

- (a) *Required Compliance.* Unless greater requirements are listed elsewhere in this chapter, all developments shall meet the minimum requirements for the applicable district shown in Article IV.

Sec. 82-30. General Requirements.

- (a) *Lot of Record Required.* Every building hereafter erected, structurally altered, or relocated shall be placed on a legal lot of record.
- (b) *Number.* Except for multiple occupancy developments, only one single family residence or duplex shall be permitted on a lot unless a second such structure is permitted in the zoning district in which is located as a conditional use or through a site plan review process.
- (c) *Lot Enlargement.* Lots, which qualify as building sites may be enlarged through acquisition of adjacent property as long as the remaining tract of land meets the standards of this ordinance.
- (d) *Density.* New residential development shall conform to the density requirements identified in the *Calumet County Land Subdivision Ordinance*, or its successor code, or any amendments or comprehensive revisions thereto of that ordinance.
- (e) *Road Frontage.* All newly created lots must have the minimum frontage abutting upon a public road, or an approved private road, that is equal to, or greater than the required lot width identified in this Chapter unless a flag lot is created in accordance with the Calumet County Land Division Ordinance.
- (f) *Access to Road.* No building shall be placed on a lot, which does not have an access to a public road.

Sec. 82-31. Setbacks from Roads.

- (a) *Minimum Setbacks Required.* Except for signs authorized in Article VIII, *Signs*, all structures shall meet the minimum required road setbacks in subs. (1) through (5).
 - (1) *State and Federal Roads.* The required setback for all structures fronting on State and Federal roads shall be 125 feet from the centerline of the road.
 - (2) *County Roads.* The required setback for all structures fronting on County roads shall be 100 feet from the centerline of the road.
 - (3) *Town Roads.* The required setback for all structures fronting on all town roads shall be 75 feet from the centerline of the road.

- (4) *Private Roads.* The required setback for all structures fronting on private roads or private road easements serving 3 lots or more shall be 30 feet from the edge of the traveled roadway.
 - (5) *Platted Subdivision Road.* In a platted subdivision the setback shall be at least 30 feet from a road right-of-way.
- (b) *Road Setback Averaging.* A setback of less than the required setback for the appropriate class of road shall be permitted in cases where the primary principal buildings on the adjacent lots are located closer to the road than the required setback.
- (1) Where there are existing principal structures within 250 feet of the proposed principle structure in both directions, the setback shall equal the average of the distances that the two existing principal structures are set back from the road centerline.
 - (2) Where there is an existing principal structure within 250 feet of the proposed principle structure in only one direction, the setback shall equal the average of the distance that the existing principal structure is set back from the road centerline and the required setback identified in 82.31 (a).
 - (3) In all cases of road setback averaging, the road setback shall not be reduced to less than 10 feet from the road right-of-way.
- (c) *Vision Clearance.* No structure in excess of 3 feet in height, vehicle, equipment, or object of natural growth, except annually harvested crops, which are not trees, shall be located in a vision clearance triangle as described herein. In each quadrant of any public road intersection or road-railroad intersection, there shall be a vision clearance triangle bounded by the road (and/or track) centerlines and a line connecting points on them in accordance with the following:
- (1) 330 feet from the centerline intersection along all railroads.
 - (2) 250 feet from the centerline intersection along all State and/or Federal roads.
 - (3) 200 feet from the centerline intersection along County roads.
 - (3) 150 feet from the centerline intersection along town roads outside a platted subdivision.
 - (4) 125 feet from the centerline intersection along town roads within, or bounded by, a platted subdivision.
 - (5) For lots served by public sewer and which are located in a platted subdivision the vision clearance triangle shall be bounded by the intersection of the platted lot lines abutting the roads as measured 25 feet from said intersection along said lot lines.
 - (6) No vision clearance triangle shall be required when a private road intersects with a public road or railroad.
- (d) *How Measured.* The setback distances shall be measured from the nearest portion of the structure, not including up to two feet of roof overhang. An unroofed 4 foot stair, or, a 4 foot unenclosed, unroofed landing or balcony may be permitted, provided that these items are not located within any public road right-of-way.

- (e) *Exceptions.* Except as restricted in par. (c), *Vision Clearance*, the following structures shall be permitted within the required setback of roads, provided that they do not violate any other provision of this chapter:
- (1) Structures which are not buildings and which are less than 6 inches above preconstruction grade.
 - (2) Public utility poles, lines, and related equipment without permanent foundations.
 - (3) Minor structures, as listed in Sec. 82-39(b)(1), *Minor Structures Exempt*.
 - (4) Open fences, which do not exceed 6 feet in height, provided they are not located within a public road right-of-way or a vision clearance triangle.
 - (5) Signs less than 3 feet in height as provided in Article VIII, *Signs*.
 - (6) Structures such as ramps and landings, lifts designed and intended to comply with the requirements of the Americans with Disabilities Act where no feasible alternative locations exist provided said structures are not located within a public road right-of-way or a vision clearance triangle.

Sec. 82-32. Front, Rear, and Side Yard Setbacks.

Unless a greater setback is required elsewhere in this chapter, the following shall apply to all front, rear, and side yards established in Article IV, *Zoning District Requirements*:

- (a) *How Measured.* The yard distances shall be measured from the nearest portion of the structure, not including up to two feet of roof overhang.
- (b) *Exemptions.* The following structures are permitted in front, rear, and side yards provided they do not violate any other provision of this chapter:
 - (1) Public utility poles, lines, and related equipment without permanent foundations.
 - (2) All fences, provided they are not located within a public road right-of-way or vision clearance triangles, and, provided they do not impede drainage. The Code Administrator reserves the right to have the fence ordered removed or altered if it is evident the structure is impeding, or negatively impacting, the drainage on adjacent parcels or to a navigable body of water.
 - (3) Structures which are not buildings and which are less than 6 inches above pre-construction grade.
 - (4) Minor structures, as listed in Sec. 82-39(b)(1), *Minor Structures Exempt*.

Sec. 82-33. Setbacks for Barnyards, Feedlots, and Farm Structures Housing Animals.

- (a) Barnyards, feedlots, manure pits and farm structures housing animals shall be located at least 100 feet from navigable water and shall be located so that manure will not drain into navigable water.
- (b) Barnyards, feedlots, manure pits and farm structures housing animals shall be located at least 200 feet from any dwelling unit other than that of the animal keeper's dwelling unit.

Sec. 82-34. Height Requirements.

- (a) *General Height Requirements.* Unless restricted or permitted increases are identified elsewhere in this chapter, maximum height requirements for principal and accessory structures are listed in Article IV, Zoning District Requirements.
- (b) *Fences.* No closed fence shall exceed 9 feet in height from original grade as measured along the length of the fence.
- (c) *Airport Height Restrictions.* Additional height requirements may exist near municipally owned airports as administered by the municipality.
- (d) *Exemptions.* The following shall be exempted from the height requirements of this section:
 - (1) Agricultural structures provided such structures are used solely for agricultural purposes.
 - (2) Structures authorized by condition of a Conditional Use Permit.
 - (3) Special structures such as elevator penthouses, grain elevators, observation towers in parks, communication towers, electrical poles and towers, and smoke stacks.
 - (4) Renewable energy facilities provided such structures shall not exceed in height 1.1 times their distance from the nearest lot line.
 - (5) Public or Semi Public Facilities, such as schools, churches, monuments, libraries, governmental offices and stations, may be erected to a height of 60 feet provided that all required setbacks and yards are increased by not less than 1 foot for each foot the structure exceeds 35 feet in height.

Sec. 82-35. Floor Area Requirements

- (a) *Residential Dwelling Units.* Except for occupancy units within a multiple occupancy development and except as specified in par.(b), for dwelling units in all districts, the minimum floor area shall be 750 square feet.
- (b) *Tiny Homes.* Homes with floor area less than 400 square feet and designed for occupation by 3 or less people may be approved as a conditional use by the Planning, Zoning and Farmland Preservation Committee. Tiny Homes shall be placed on a permanent foundation and all relevant State, County and Local building codes must be addressed by the applicant as conditions of any conditional use request.
- (c) *Manufactured Home Parks.* Manufactured homes in manufactured home parks shall have a minimum floor area of 550 square feet as identified in Sec. 82-76(b), *Manufactured Home Parks*.

Sec. 82-36. Impervious Surface Requirements.

- (a) *Maximum Limitations.* Unless restricted or permitted increases are identified elsewhere in this chapter, impervious surface ratios shall not exceed the maximum limitations identified in Article IV, *Zoning District Requirements* and par. (c) below.
- (b) *Calculation.* The percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel by the total surface area of that lot or parcel, and multiplied by 100.

- (c) *Treated Impervious Surfaces.* Surfaces that can be documented to demonstrate they meet any of the following standards shall be excluded from the impervious surface calculations under this section.
- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
 - (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
 - (3) The property owner must demonstrate that the runoff from an impervious surface is being treated with an appropriately designed system.
 - (4) *Existing Impervious Surfaces.* Existing impervious surfaces that were lawfully placed when constructed, but that do not comply with the impervious surface standards in this section may be maintained, repaired or replaced within the existing footprint of the structure or surface or relocated or modified with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of this ordinance. Other provisions of this ordinance such as setbacks apply.

Sec. 82-37. Landscape Buffers.

- (a) *Purpose.* These requirements are intended to reduce potential adverse impacts that a particular land use might have on occupiers of adjacent properties, such as glare of lights, dust, litter, and visual appearance. With vegetative screening, such adverse impacts will be lessened.
- (1) *Applicability.* The landscape buffer requirement applies where a commercial, industrial, or institutional use is proposed to be located on a lot which adjoins an existing residential use in a Small Estate Residential, Single Family Residential-20,000, Single Family Residential-10,000 or High Density Residential zoned district.
- (b) *General Requirements.*
- (1) *Screening.* Landscape buffers shall be located in such manner that principal buildings and outdoor storage areas associated with the proposed use are screened as viewed from the vantage point of the principal buildings on affected adjoining lots.
 - (2) *Location.* Landscape buffers may be located in an area devoted to meeting minimum side or rear yard requirements. Landscape buffers shall not be located in a public road right-of-way or vision clearance triangle.
 - (3) *When Established.* Landscape buffers, when required, shall be established on a lot at the time of the lot's development.
 - (4) *Individual Buffers.* Landscape buffers shall be provided on each lot as required by this section independent of existing landscape buffers on adjoining lots.
 - (5) *Maintenance.* Installation and maintenance of the required landscape buffers shall be the responsibility of the owner of the lot.

(6) *Number of Trees.* There shall be at least 10 evergreen trees per 100 linear feet of landscape buffer, or 15 deciduous trees per 100 linear feet of landscape buffer, or a combination of thereof that are at least 4 feet in height at the time of the establishment of the landscape buffer.

(c) *Landscape Buffer Exemptions.*

(1) Landscape buffers shall not be required when the principal building and outdoor storage areas associated with the proposed use are located at least 300 feet from the nearest lot line.

Sec. 82-38. Filling and Grading.

A general zoning permit is required for filling, grading, excavating (including pond development), and ditching under this section in any zoning district for filling and grading of the following areas.

(a) $>2,000/<12\%$. The filling, grading, ditching, or excavating exceeds 2,000 square feet on slopes of less than 12 percent.

(b) $>1,000/12-20\%$. The filling, grading, ditching, or excavating exceeds 1,000 square feet on slopes of 12 to 20 percent.

(c) $>20\%$. The filling, grading, ditching, or excavating is on slopes of more than 20 percent.

(d) *Exemptions.* No regular zoning permit shall be required if:

(1) An erosion control permit has been issued under Chapter 10 of the Calumet County Code of Ordinances.

(2) The filling and grading is incidental to a project authorized by a regular zoning permit.

(3) For planting, growing, cultivating, and harvesting agricultural crops, installation of public utilities or sanitary waste disposal systems, or construction of public roads and walkways, nor projects authorized by state or federal agencies under s. 30.19, Wis. Stats.

(e) *Construction Grades.* Final grading around any structure shall comply with the grade elevation established on the stormwater management plan or other drainage plan for the particular subdivision. When a stormwater management plan or drainage plan is nonexistent for a lot, the final grade and maintained grade shall not be higher than the average of the grade on the adjacent properties. The Code Administrator may require that a grading and drainage plan be prepared and approved prior to the issuance of a zoning permit for new construction. Dependent on the amount of grading proposed, the Code Administrator may require the plan include a cross section of the adjacent parcels, and the parcel subject of the grading, to ensure the proposed grading will not result in adverse runoff onto the adjacent parcels. In areas where drainage is not parallel to lot lines, the site plan for the zoning permit application shall address the direction and handling of surface water flow. In no case shall water be diverted onto a town road surface.

Sec. 82-39. Accessory Structures.

(a) *Permit Required.* All accessory structures shall require the authorization of a regular zoning permit unless exempted by this section. The following standards apply:

(1) Accessory structures shall comply with all setback and height requirements for accessory structures in the district to which they are accessory.

- (2) Accessory structures permitted under this section shall not be permitted until its associated principal structure is present or under construction or a zoning permit has been issued for the construction of the principal structure on the lot. Construction of the permitted principal structure must commence within one year of starting construction of the accessory structure.
 - (3) Accessory structures shall not be designed for human habitation and shall contain no living quarters.
 - (4) Accessory structures are limited to one floor or story. Lofts are permitted within accessory structures for storage purposes only.
 - (5) Buildings accessory to an agricultural use, whereby the building is used solely in conjunction with the agricultural use and located on a farm, shall not be restricted in size or height.
- (b) Exempt Accessory Structures
- (1) *Minor Structures.* Minor structures such as birdhouses, birdbaths, clothesline poles, flagpoles, temporary fire pits less than 5 feet in diameter, ice shanties, school bus waiting shelters, non-commercial fuel storage tanks, tree houses or play houses which do not exceed 120 square feet in footprint, or 16 feet in height and/or cover more than 10% of the lot area.
 - (2) *Fences.* Agricultural fences which meet the requirements of Ch. 90, Wis. Stats.
 - (3) *Non-Commercial Solar Panels.* Non-commercial solar panels attached to a permitted principal or accessory structure.
 - (4) *Small Structures.* Accessory structures that have a footprint less than 120 square feet and are less than 9 feet in height, and meet all required setbacks contained in this chapter.
- (c) Items Prohibited as Accessory Structures
- (1) Items such as, but not limited to, boats, truck bodies, semi-trailer boxes, manufactured homes, buses, railroad cars, shipping containers and trailers shall not be used as accessory structures.
- (d) Temporary Shipping Containers or Storage Pods
- (1) Temporary shipping containers or storage pods may be used for personal storage and are permitted in all districts when used for the moving process or if an act of nature destroys/damages permanent structure(s) on the property. Temporary shipping containers and storage pods must meet all applicable setbacks for a structure and shall be removed from the property within 3 months of the initial placement.

Sec. 82-40. Outdoor Storage of Junk Material.

The purpose of this subsection is to regulate the location and accumulation of junk. Calumet County has found it necessary to regulate by ordinance the storage and disposal of automobiles, tires, junk, and similar miscellaneous waste due to the fact that there has been a proliferation of unlicensed junk yards, tire piles, and dumps of similar miscellaneous materials within Calumet County. The proliferation presents a threat to the public health and safety of the citizens of Calumet County and to the natural environment and property values. The provisions of this subsection of this ordinance are adopted pursuant to the authority granted to Calumet County by Wis. Stat. 59.69, 84.31(2)(b) & (9), 175.25, and 342.40(3).

- (a) *Where Prohibited.* In the Single Family Residential-20,000, Single Family Residential-10,000, Small Estate Residential, Agricultural Residential, High Density Residential, Mixed Use Commercial, Commercial Center, and Wetland Overlay districts, the outdoor storage of junk material is prohibited
- (b) *Where Allowed.* In the Natural Area, Exclusive Agricultural, General Agricultural, Heartland, Light Industrial, and Industrial Districts, the outdoor storage of junk material, including no more than 2 inoperable vehicles, is allowed on a lot with a principal structure if screened from the road right-of-way or a developed adjacent building by a closed fence capable of screening the junk or a vegetative screening buffer.
- (d) *Exemption.* The storage of idle, but operable farm equipment on an operating farm, or legally licensed and permitted salvage yards, sanitary landfills, or other waste disposal or storage activities, which a valid license from the State of Wisconsin and/or other municipality is required, has been issued, and is valid.

Sec. 82-41. Blasting Limitations.

The purpose of this subsection is to establish uniform and permissible limits of blasting resultants for blasting for the erection or placement of structures greater than 15 feet in height above the ground surface, and, to reasonably assure that blasting resultants do not cause injury, damage, or unreasonable annoyance to persons or property outside any controlled blasting site area. Blasting associated with nonmetallic mining operations shall be per Sec. 82-73(b), *Nonmetallic Mining*.

- (a) *Application Required.* No person shall blast for the footing, foundation, or other method of support for the erection or placement of structures greater than 15 feet in height above the ground surface, unless:
 - (1) *License Required.* The individual possesses a valid State of Wisconsin Blasters License with the proper classification or supervised by a holder of a valid State of Wisconsin Blaster’s License with the proper classification.
 - (2) *Permit Required.* The individual possesses all necessary State permits and complies with all applicable local, State, and Federal regulations, including, but not limited to, the requirements of this ordinance.

Sec. 82-42 - Sec. 82-47. Reserved.

ARTICLE IV. ZONING DISTRICT REQUIREMENTS

Sec. 82-48. Exclusive Agricultural Zoning District (EA)

- (a) *Purpose.* The intent of EA district is to protect and enhance the agricultural industry from scattered nonagricultural development that may displace agricultural uses. This district contains land that is suitable for productive farm operations; that exhibit good food and fiber production; demonstrate productivity for dairying, grazing, and livestock; produce specialty crops such as fruits, plant materials, trees and vegetables; or are integral to such a farm operation. Although some residential development is allowed, it is limited in density and location so as to not be incompatible with the agricultural operations and uses of the EA district. This district is intended to help implement recommendations of the county farmland preservation plan.

(b) Permitted Uses	
Agricultural Use	Residences that existed prior to November 2, 2009

Essential services under 91.44 (1) (f) that are required to be located in a specific place under state or federal law	Undeveloped natural resources and open space areas
Non-commercial Communication Towers, Antennas, Transmitters under Wis. Stat. 91.44 (1) (f) 82-77 (d)	
The following uses provided that they are conducted by the owner or operator of a farm, operated in a building, structure, or improvement that is incidental to an agricultural use or that employs no more than 4 full time employees, and does not impair or limit the current or future agricultural use of the farm as follows; Wis. State. 91.01 (1)(d)	
Airstrips & Landing Fields, Private 82-77 (a)	Greenhouses
(c) Conditional Uses	
Agricultural-related uses	Home Business 82-72 (g)
Farm Implement Sales & Service	Sawmills / Planing Mills 82-73 (a)
Fertilizer Distribution Plants	Slaughterhouses
Grain Mills	
The following uses provided that they are conducted by the owner or operator of a farm, operated in a building, structure, or improvement that is incidental to an agricultural use or that employs no more than 4 full time employees, and does not impair or limit the current or future agricultural use of the farm as follows; Wis. Stat. 91.01 (1)(d)	
Bed & Breakfast Establishments	Farm Markets 82-71(a)
Boardinghouses 82-72 (i)	Fruit/Vegetable/Cheese Processing Plants
Bulk Storage of Fuel Products	Manufacturing, Assembly, Processing
Commercial Riding Stables 82-75 (c)	Trade or Contractor Establishments 82-72 (d)
Commercial Trucking Establishments	Veterinarian Clinics primarily devoted to serving livestock
Transportation, communication, pipeline, electric transmission, utility, or drainage uses as follows; 91.46 (4)	
Mobile Service Facilities/Mobile Service Support Structures 82-77(e)	Utility Facilities Type A 82-77 (b)
Permanent Met towers 82-77 (d)	Utility Facilities Type B 82-77 (b)
Temporary Met towers 82-77 (d)	
Governmental, institutional, religious, or nonprofit community uses as follows; Wis. Stat. 91.46 (5)	
Airstrips & Landing Fields, Commercial/Government 82-77 (a)	Public Highway Garages
Churches and Community Centers 82-74 (a)	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Parks and Recreational Trails	Town Halls/Community Centers
Public and Private Schools	
Nonmetallic Mining as identified in Wis. Stat. 91.46 (6)	
NOTES:	
* The conversion of a pre-11/2/2009 farm residence to a single family residence is a permitted use.	
** The conversion of a post-11/2/2009 farm residence to a single family residence, or the creation of a new single family residence requires a rezone under 82-48 (f)(2).	

(d) Accessory Uses

- (1) Farm residence.
- (2) Temporary manufactured homes used as residences for farm employees who earn more than 50% of their gross income from the farm or parents, or adult children of the farm operator. Temporary manufactured homes shall be located on the same lot, and within 300 feet of the dwelling unit of the farm operator and be removed when the home is no longer occupied by the farm employee, parent or adult children of the farm operator.
- (3) Unattached garages for personal storage that are accessory to a permitted nonfarm residential structure. The total building footprint for all nonfarm residential accessory structures shall not exceed 4000 square feet.
- (4) A use not listed as a permitted or conditional use that is an integral part of, or incidental to, an established agricultural use conducted on the farm.

- (5) Facilities or improvements on a farm that are an integral part of, or incidental to, a permitted agricultural use including:
 - A. Facilities used to keep livestock on the farm.
 - B. Facilities used to store or process inputs primarily for agricultural uses on the farm.
 - C. Facilities used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - D. Manure digester, bio-fuel facility, small scale energy systems, solar systems or other facilities that produce energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - E. Waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - F. Temporary roadside stands up to 160 square feet in size used solely for the sale of products produced on the farm. Roadside stands must be placed outside the right-of-way and may not interfere with or present a hazard to any person, property, or traffic.
 - G. Agricultural Tourism.
 - H. Home Occupations 82-72 (f) compliant with Wis. State. 91.01 (1)(d)
 - i. Family Daycare Homes compliant with Wis. State. 91.01 (1)(d)
 - J. Any other use that DATCP, by rule, identifies as an accessory use.

- (e) Conditional Use Standards. A conditional use permit may be issued in an Exclusive Agricultural Zoned district only if all the following apply:
 - (1) The use and its location in the farmland preservation zoning district are consistent with the purpose of the farmland preservation zoning district.
 - (2) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - (3) The use is reasonably designed to minimize conversion of land at and around the site of the use from agriculture or open space use.
 - (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
 - (6) All other Conditional Use standards identified in Sec. 82-133

(f) Zoning Amendments in the EA – Exclusive Agriculture District

- (1) No land in the EA district shall be rezoned to any other district, except as provided in (2) below, unless following a public hearing the County Board finds all of the following are or will be met:
 - A. The land is better suited for a use not allowed in the EA district.
 - B. The rezoning is consistent with the Town and County Comprehensive Plans, and the Calumet County Farmland Preservation Plan.
 - C. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (2) The following apply when the rezoning of land from the EA district would enable one or more single family residences:
 - A. The owner(s) of a farm shall be eligible to rezone 1 acre of property for every 20 acres of total farm area owned for a new single family residence, including any preexisting residence, to the Agricultural – Residence District (A-R).
 1. Any balance of acreage used from the **total farm area** to enable rezoning for a single family residence under subsection A. must be simultaneously rezoned to the EA-P zoning district. Land in the EA-P district cannot be used together with other land not in the EA-P district to achieve the acreage normally necessary to build another single family residence under subsection A.
 - a. The ratio identified under (f)(2)A. must be applied first to a farm related residence constructed after November 2, 2009 and converted to a single family residence if any parcel proposed to be used for the ratio under (f)(2)A. is part of a total farm area in which the residence was constructed after November 2, 2009.
 2. Each new single family residence in the A-R District must be placed on a parcel created by CSM. Parcel shall have a minimum of 150 feet in width and be at least 1 acre in size, exclusive of road right-of-way.
 - a. A note shall be included on Parcels created under C. indicating future changes in lot dimensions shall be prohibited unless the change is included on a new CSM that is approved by the Planning, Zoning and Farmland Preservation Committee.
 3. Each newly created lot in the A-R District must abut a public road. Flag lots are permitted as defined in the Calumet County Land Division Code. The narrow portion of an approved flag lot may be exempt from the ratio requirements identified 82.48(f)(2)A. if it is located on an existing farm access drive.
 4. The new single family residence shall not adversely affect agricultural operations in surrounding areas or be situated such that future inhabitants of the residence might be adversely affected by agricultural operations in surrounding areas.

5. The new single family residence and the new driveway needed to serve the residence shall not divide existing farm fields, but instead shall be beyond the farm field or towards the edge of a farm field where a location beyond the field is not practical.
6. The proposed location of the new single family residence must not be well suited for agricultural use by virtue of:
 - a. Being wooded.
 - b. Having unfavorable topography for farming.
 - c. An odd shape for farming.
 - d. Unsuitable soil characteristics.
 - e. Other factors that limit its agricultural suitability.
7. The associated land division of the A-R District under C. must be accompanied by a restriction on the further division of such lots and by a right-to-farm notice per the Farmland Preservation Plan, and such restriction and notice must be recorded prior to issuance of a zoning permit for the residence.
8. The owner of each non-conforming parcel of land zoned EA, if legally created before November 2, 2009, shall be eligible for one single family residence, including any preexisting residence.
9. The process for farm consolidation shall follow the process identified in 82-48 (f) but the ratio requirements identified in 82-48 (f)(2)A. may be exceeded if needed to follow existing natural and other geological features or existing agricultural structures and amenities on the property. Nonfarm residences constructed after November 2, 2009 are required to conform to all standards of this ordinance.

B. As part of intergovernmental cooperation, the Planning, Zoning and Farmland Preservation Committee may consider an action that permits a non-farm residence on a farm in which the total farm area or base farm tract crosses into a zoning jurisdiction other than what is governed by this chapter if that zoning jurisdiction has a farmland preservation zoning district that is certified by DATCP.

(g) Dimensional Standards. The following requirements apply to the Exclusive Agricultural District:

Exclusive Agriculture - EA Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	Residential and Other Uses Approved as a Site Plan Review or Conditional Use
Lot Requirements		
Lot Width	600 feet	150 feet
Lot Area	20 ac.	1 ac.

Max Impervious Surface	25%	25%
Max Residential Ratio	1/20 Ratio	-
Principal Structure Setbacks		
Yards – Side & Front - Principal	25'	25'
Yards – Rear - Principal	50'	50'
Structure Height - Principal	35'	35'
Accessory Structure Setbacks		
Yards – Side & Front - Accessory	15'	15'
Yards – Rear - Accessory	20'	20'
Structure Height - Accessory	25'	25'
Road set back: Sec. 82-31	125 / 100 / 75	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-49. Exclusive Agricultural – Preservation Zoning District (EA-P)

- (a) Purpose. The intent of EA-P District is to further protect and enhance the agricultural industry from scattered nonagricultural development. This district contains land that is suitable for productive farm operations; exhibit good food and fiber production; demonstrate productivity for dairying, grazing, and livestock; produce specialty crops such as fruits, plant materials, trees and vegetables; or are integral to such a farm operation. The EA-P zoning designation indicates that these lands have been used to allow for limited residential development in the EA District and that no further single family residential ratio for development is permitted.

(b) Permitted Uses	
Agricultural Use	Undeveloped natural resources and open space areas
Essential services under 91.44 (1) (f) required to be located in a specific place under state or federal law	
(c) Conditional Uses	
The following uses provided that they are conducted by the owner or operator of a farm, operated in a building, structure, or improvement that is incidental to an agricultural use or that employs no more than 4 full time employees, and does not impair or limit the current or future agricultural use of the farm as follows; Wis. Stat. 91.01 (1)(d)	
Airstrips & Landing Fields, Private 82-77 (a)	Family Daycare Homes
Boardinghouses 82-72 (i)	Greenhouses
Agricultural-related uses as follows Wis. Stat. 91.01 (3)	
Bulk Storage of Fuel Products	Grain Mills
Farm Implement Sales & Service	Veterinarian Clinics Primarily Devoted to Serving Livestock
Transportation, communication, pipeline, electric transmission, utility, or drainage uses as follows; 91.46 (4)	
Mobile Service Facilities/Mobile Service Support Structures 82-77(e)	Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Permanent Met towers 82-77 (d)	Utility Facilities Type A 82-77 (b)
Temporary Met towers 82-77 (d)	Utility Facilities Type B 82-77(b)
Governmental, institutional, religious, or nonprofit community uses as follows; Wis. Stat. 91.46 (5)	
Parks and Recreational Trails	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Nonmetallic Mining as identified in Wis. Stat. 91.46 (6)	

(d) Accessory Uses

- (1) Existing Farm residences.
- (2) Temporary manufactured homes used as residences for farm employees who earn more than 50% of their gross income from the farm or parents, or adult children of the farm operator. Temporary manufactured homes shall be located on the same lot, and within 300 feet of the dwelling unit of the farm operator and be removed when the home is no longer occupied by the farm employee, parent or adult children of the farm operator.
- (3) A use not listed as a permitted or conditional use, that is an integral part of, or incidental to, an established agricultural use conducted on the farm,
- (4) Facilities or improvements on a farm that are an integral part of, or incidental to, a permitted agricultural use including:
 - A. Facilities used to keep livestock on the farm.
 - B. Facilities used to store or process inputs primarily for agricultural uses on the farm.
 - C. Facilities used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - D. Manure digester, bio-fuel facility, small scale energy systems, solar systems or other facilities that produce energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - E. Waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - F. Agricultural Tourism.
 - G. Any other use that DATCP, by rule, identifies as an accessory use.

(e) Conditional Use Standards. A conditional use permit may be issued in an Exclusive Agricultural Zoned district only if all the following apply:

- (1) The use and its location in the farmland preservation zoning district are consistent with the purpose of the farmland preservation zoning district.
- (2) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (3) The use is reasonably designed to minimize conversion of land at and around the site of the use from agriculture or open space use.
- (4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- (6) All other Conditional Use standards identified in Sec. 83-133
- (f) Zoning Amendments in the Exclusive Agriculture - Preservation District
 - (1) No land in the EA-P district shall be rezoned to any other district, except as provided below, unless following a public hearing the County Board finds all of the following are met and the rezone is approved by a 2/3 super majority vote.
 - A. The land is better suited for a use not allowed in the EA district.
 - B. The rezoning is consistent with the Town and County Comprehensive Plans, and the Calumet County Farmland Preservation Plan.
 - C. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (g) Dimensional Standards. The following requirements apply to the Exclusive Agricultural-Preservation District:

Exclusive Agriculture Preservation – EA - P		
	Dimensional Requirements	
Lot Width	600'	
Lot Area	20 ac.	
Max Impervious Surface	25%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	25'	25'
Yards - Rear	50'	25'
Structure Height	35'	25'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-50. Agricultural Residential District (A-R)

- (a) Purpose. The intent of A-R District is to provide for limited residential development on smaller lots that will not impact the agricultural production of surrounding lands. These lands are generally located within the EA-P and EA districts and have been created with the intent to preserve large tracts of agricultural lands and associated agricultural uses first; and to allow limited residential development and small low impact agricultural service business opportunities second.

(b) Permitted Uses	
Agricultural Use	Manufactured Homes 82-76 (a)
Bed & Breakfast Establishments	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)

Boardinghouses 82-72 (i)	Non Commercial Communication Towers
Farm Related Residence	Single Family Residences
Greenhouses	Utility Facilities - Type A 82-77 (b)
(c) Site Plan Approval	
Duplexes	Non-commercial Communication Towers, Antennas, Transmitter 82-77(d)
Farm Markets 82-71(a)	Public Boat Launch Facilities
Kennels 82-72 (a)	Veterinarian Clinics
(d) Conditional Uses	
Animal Shelters and Pounds 82-77 (c)	Retail Stores/Showrooms
Art Galleries	Trade or Contractor Establishments 82-72 (d)
Auto Repair 82-72 (c)	Utility Facilities - Type B 82-77 (b)
Home Business 82-72 (g)	

- (e) Accessory Uses. The following uses are allowed in the AR district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 3200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Temporary roadside stands used solely for the sale of products produced on the farm.
 - (4) Home Occupation per Sec. 82-72 (f).
 - (5) Family Daycare Home.
- (f) Dimensional Requirements. The following requirements apply to the Agricultural Residential District:

Agriculture Residential – A - R Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	
Lot Width	150'	
Lot Area	1 ac.	
Max Impervious Surface	25%	
Max Residential Density	N/A	
Structure Setbacks	Principal	Accessory
Yards – Side & Front	25'	15'
Yards - Rear	40'	20'
Structure Height	35'	25'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-51. General Agriculture Zoning District (GA)

- (a) Purpose. This district is intended to maintain agricultural lands, which have historically demonstrated high agricultural productivity. It is also intended to accommodate certain non-agricultural uses, which require spacious areas to operate where natural resource exploitation occurs. Lands eligible for designation in this district shall generally include those designated as farmland preservation areas in the *Calumet County Farmland Preservation Plan*. This district is also intended to provide farmland owners with additional management options by allowing limited residential development, or with residential density limits and other requirements set so as to maintain the rural characteristics of this district.

(b) Permitted Uses	
Agricultural Use	Farm Related Residences
Airstrips & Landing Fields, Private 82-77 (a)	Greenhouses
Bed & Breakfast Establishments	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Boarding Houses 82-72 (i)	Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Camping 82-75 (b)	Parks and Recreational Trails
Cemeteries	Permanent MET Towers 82-77 (d)
Churches and Community Centers 82-74 (a)	Single Family Residences
Commercial Fishing Facilities	Temporary MET Towers 82-77 (d)
	Utility Facilities - Type A 82-77 (b)
(c) Site Plan Approval	
Airstrips & Landing Fields, Commercial/Government 82-77 (a)	Lumber/Building Supply Yards
Commercial Riding Stables 82-75 (c)	Public Boat Launch Facilities
Farm Implement Sales & Service	Public Highway Garages
Farm Markets 82-71(a)	Public and Private Schools
Fire/Police Stations	Town Halls/Community Centers
Golf Courses	Temporary Concrete or Asphalt Batch Plants 72-73 (f)
Grain Mills	Veterinarian Clinics
Kennels 82-72 (a)	Wineries/Micro Breweries
(d) Conditional Uses	
Agricultural Tourism Operations	Home Business 82-72 (g)
Airports 82-77 (a)	Manufacturing, Assembly, Processing
Ammunition Manufacturing and Wholesale Distribution	Nonmetallic Mining 82-73 (b)
Animal Shelters and Pounds 82-77 (c)	Resource Recovery Facilities 82-73 (e)
Art Galleries	Retreat Centers
Asphalt/Concrete Plants	Salvage Yards 82-73 (c)
Bulk Storage of Fuel Products	Sawmills / Planing Mills 82-73 (a)
Campgrounds and Trailer Camps 82-75 (a)	Sewage Disposal/Treatment Plants
Commercial Storage Facilities 82-72 (e)	Slaughterhouses
Commercial Trucking Establishment	Solid Waste Facilities 82-73 (d)
Fertilizer Distribution Plants	Taxi and Limousine Service
Fruit/Vegetable/Cheese Processing Plants	Trade or Contractor Establishments 82-72 (d)
Gun Clubs/Shooting Ranges 82-75 (d)	Utility Facilities - Type B 82-77 (b)
Institutional Recreation Camps	Wholesale Establishments and Distributorships 82-73 (g)

- (e) Accessory Uses. The following uses are allowed in the GA district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 4000 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.

- (3) Temporary manufactured homes used as residences for farm employees who earn more than 50% of their gross income from the farm or parents, or adult children of the farm operator. Temporary manufactured homes shall be located on the same lot, and within 300 feet of the dwelling unit of the farm operator and be removed when the home is no longer occupied by the farm employee, parent or adult children of the farm operator.
- (4) Temporary roadside stands used solely for the sale of products produced on the farm.
- (5) Home Occupation per Sec. 82-72 (f)
- (6) Family Daycare Homes.

(f) Dimensional Requirements. The following requirements apply to the General Agricultural District:

General Agricultural - GA Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	Residential and Other Uses Approved as a Site Plan Review or Conditional Use
Lot Requirements		
Lot Width	600 feet	150 feet
Lot Area	20 ac.	1 ac.
Max Impervious Surface	25%	25%
Max Residential Density	1/10	-
Principal Structure Setbacks		
Yards – Side & Front - Principal	25'	25'
Yards – Rear - Principal	50'	50'
Structure Height - Principal	35'	35'
Accessory Structure Setbacks		
Yards – Side & Front - Accessory	15'	15'
Yards – Rear - Accessory	20'	20'
Structure Height - Accessory	25'	25'
Road set back: Sec. 82-31	125 / 100 / 75	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-52. Heartland (HL)

- (a) Purpose. This district is primarily intended for mostly rural areas of Calumet County where agricultural activity has been declining or is threatened, but where a mixture of rural residential and agricultural activity is desirable or existing. The district primarily provides for residential development at modest densities consistent with the generally rural environment and also provides for certain non-residential uses that require relatively large land areas and/or which are compatible with surrounding residential uses. This district secondarily provides for continued agricultural uses of land.

(b) Permitted Uses

Agricultural Use	Manufactured Homes 82-76 (a)
Bed & Breakfast Establishments	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Boardinghouses 82-72 (i)	Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Camping 82-75 (b)	Parks and Recreational Trails
Cemeteries	Temporary MET Towers 82-77 (d)
Churches and Community Centers 82-74(a)	Single Family Residences
Farm Related Residence	Utility Facilities - Type A 82-77 (b)
Greenhouses	
(c) Site Plan Approval	
Airstrips & Landing Fields, Commercial/Government 82-77 (a)	Lumber/Building Supply Yards
Airstrips & Landing Fields, Private 82-77 (a)	Permanent MET Towers 82-77 (d)
Commercial Riding Stables 82-75 (c)	Public Boat Launch Facilities
Duplexes	Public Highway Garages
Farm Implement Sales & Service	Public and Private Schools
Farm Markets 82-71(a)	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Fire/Police Stations	Town Halls/Community Centers
Golf Courses	Veterinarian Clinics
Kennels 82-72 (a)	Wineries/Micro Breweries
(d) Conditional Uses	
Agricultural Tourism Operations	Institutional Residential
Ammunition Manufacturing and Wholesale Distribution	Libraries/Museums
Animal Shelters and Pounds 82-72 (c)	Manufacturing, Assembly, Processing
Asphalt/Concrete Plants	Manufactured Home Parks 82-76 (b)
Art Galleries	Nonmetallic Mining 82-73 (b)
Auto Repair 82-72 (c)	Planned Residential Developments 82-76 (c)
Campgrounds and Trailer Camps 82-75 (a)	Retail Stores/Showrooms
Daycare Centers 82-72 (j)	Retreat Centers
Fertilizer Distribution Plants	Salvage Yards 82-73 (c)
Fruit/Vegetable/Cheese Processing Plants	Sawmills / Planing Mills 82-73 (a)
Grain Mills	Sewage Disposal Treatment Plants
Gun Clubs/Shooting Ranges 82-75 (d)	Solid Waste Facilities 82-73 (d)
Home Business 82-72 (g)	Trade or Contractor Establishments 82-72 (d)
Institutional Recreation Camps	Utility Facilities - Type B 82-77 (b)

- (e) Accessory Uses. The following uses are allowed in the HL district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 3200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Temporary roadside stands used solely for the sale of products produced on the farm.
 - (4) Home Occupation per Sec. 82-72 (f)
 - (5) Family Daycare Homes.
 - (6) Temporary manufactured homes used as residences for farm employees who earn more than 50% of their gross income from the farm or parents, or adult children of the farm operator. Temporary manufactured homes shall be located on the same lot, and within 300 feet of the

dwelling unit of the farm operator and be removed when the home is no longer occupied by the farm employee, parent or adult children of the farm operator.

(f) Dimensional Requirements. The following requirements apply to the Heartland District:

Heartland - HL Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	Residential and Other Uses Approved as a Site Plan Review or Conditional Use
Lot Requirements		
Lot Width	300 feet	150 feet
Lot Area	10 ac.	1 ac.
Max Impervious Surface	25%	25%
Max Residential Density	1/10	-
Principal Structure Setbacks		
Yards – Side & Front - Principal	25'	25'
Yards – Rear - Principal	40'	40'
Structure Height - Principal	35'	35'
Accessory Structure Setbacks		
Yards – Side & Front - Accessory	15'	15'
Yards – Rear - Accessory	20'	20'
Structure Height - Accessory	25'	25'
Road set back: Sec. 82-31	125 / 100 / 75	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-53. Small Estate (SE)

(a) *Small Estate Residential (SE)*. This district is intended to provide for single-family residential and planned residential development on smaller lots at a slightly higher density than the Heartland district. The district is intended for residential areas where high density is inappropriate or undesirable and for transitional areas that are beginning to convert from undeveloped land to residential uses.

(b) Permitted Uses	
Agricultural Use	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Bed & Breakfast Establishments	Parks and Recreational Trails
Camping 82-75 (b)	Single Family Residences
Cemeteries	Utility Facilities - Type A 82-77 (b)
(c) Site Plan Approval	
Airstrips & Landing Fields, Private 82-77 (a)	

Churches and Community Centers 82-74 (a)	Non-Commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Commercial Riding Stables 82-75 (c)	Planned Residential Developments 82-76 (c)
Duplexes	Public Boat Launch Facilities
Fire/Police Stations	Public and Private Schools
Golf Courses	Temporary Met Towers 82-77 (d)
Model Homes	Town Halls/Community Centers
(d) Conditional Uses	
Airstrips & Landing Fields, Commercial/Government 82-77 (a)	Medical/Dental Clinics
Art Galleries	Multiple Occupancy Developments 82-76(e)
Boardinghouses 82-72 (i)	Permanent MET Towers 82-77 (d)
Daycare Centers 82-72 (j)	Personal Service Establishments
Home Business 82-72 (g)	Professional Office/Studios
Hospitals	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Institutional Residential	Utility Facilities - Type B 82-77 (b)
Libraries/Museums	

- (e) Accessory Uses. The following uses are allowed in the SE district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 3200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupation per Sec. 82-72 (f)
 - (4) Family Daycare Homes.
 - (5) Temporary roadside stands used solely for the sale of products produced on the farm.
- (f) Dimensional Requirements. The following requirements apply to the Small Estate District:

Small Estate - SE Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	Residential and Other Uses Approved as a Site Plan Review or Conditional Use
Lot Requirements		
Lot Width	250 feet	150 feet
Lot Area	5 ac.	1 ac.
Max Impervious Surface	25%	25%
Max Residential Density	1/5	-
Principal Structure Setbacks		
Yards – Side & Front - Principal	25'	25'
Yards – Rear - Principal	40'	40'
Structure Height - Principal	35'	35'
Accessory Structure Setbacks		

Yards – Side & Front - Accessory	15'	15'
Yards – Rear - Accessory	20'	20'
Structure Height - Accessory	25'	25'
Road set back: Sec. 82-31	125 / 100 / 75	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-54. Single Family 20 (SF-20)

- (a) Purpose. This district is intended to provide for exclusive single-family residential and planned residential development at fairly high densities. Generally, these districts will be located along the waterfront and in or near existing communities where smaller lots dominate the development pattern. The permitted uses are restricted in order to maintain strictly residential character of these areas.

(b) Permitted Uses	
Cemeteries	Single Family Residences
Mobile Service Facilities/Mobile Service Support Structures 82-77(c)	Utility Facilities - Type A 82-77 (b)
Parks and Recreational Trails	
(c) Site Plan Approval	
Churches and Community Centers 82-74 (a)	Public Boat Launch Facilities
Model Homes	Public and Private Schools
Planned Residential Developments 82-76 (c)	
(d) Conditional Uses	
Bed & Breakfast Establishments	Private Lodges and Clubs
Libraries/Museums	Utility Facilities - Type B 82-77 (b)

- (e) Accessory Uses. The following uses are allowed in the SF-20 district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 1200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupations per Sec. 82-72 (f)
 - (4) Family Daycare Homes.
- (f) Dimensional Requirements. The following requirements apply to the Single Family 20 District:

Single Family 20 – SF-20 Dimensional Requirements, Setbacks and Height	
	Dimensional Requirements
Lot Width	100'
Lot Area	20,000 Sq. Ft.
Max Impervious Surface	25%

Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	10'	5'
Yards - Rear	30'	5'
Structure Height	35'	20'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-55. Single Family 10 (SF-10)

- (a) Purpose. This district is intended to provide for single-family residential and planned residential development at slightly higher densities than the Single Family Residential 20 district. Generally, this district will be located in or near existing communities where public sewer and water are available. The permitted uses are generally the same as those in Single Family Residential 20 district.

(b) Permitted Uses	
Cemeteries	Parks and Recreational Trails
Mobile Service Facilities/Mobile Service Support Structures 82-77(e)	Single Family Residences
	Utility Facilities - Type A 82-77 (b)
(c) Site Plan Approval	
Churches and Community Centers 82-74 (a)	Public Boat Launch Facilities
Model Homes	Public and Private Schools
Planned Residential Developments 82-76 (c)	
(d) Conditional Uses	
Bed & Breakfast Establishments	Private Lodges and Clubs
Libraries/Museums	Utility Facilities - Type B 82-77 (b)

- (e) Accessory Uses. The following uses are allowed in the SF-10 district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 1200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupations per Sec. 82-72 (f)
 - (4) Family Daycare Homes.
- (f) Dimensional Requirements. The following requirements apply to the Single Family 10 District:

Single Family 10 – SF-10 Dimensional Requirements, Setbacks and Height	
	Dimensional Requirements
Lot Width	65'

Lot Area	10,000 Sq. Ft.	
Max Impervious Surface	25%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	10’	5’
Yards - Rear	25’	5’
Structure Height	35’	20’
Road set back: per Sec. 82-31	125’ / 100’ / 75’	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-56. High Density Residential (HD)

- (a) Purpose. This district is intended to provide areas for a variety of residential uses, including multiple occupancy development, manufactured home parks, and single family residential development at fairly high densities. This district is intended to be located in areas with an existing mixture of residential types, certain regions that are served by public sewer, and other locations where high density residential developments are appropriate. This district is not intended to develop into centers with commercial activity and, thus, most commercial uses are not permitted. These lots are typically located where sewer and water are available.

(b) Permitted Uses	
Banks	Parks & Recreational Trails
Bed & Breakfast Establishments	Private Lodges and Clubs
Boardinghouses 82-72 (i)	Single Family Residences
Cemeteries	Taxi and Limousine Service
Duplexes	Utility Facilities - Type A 82-77 (b)
Mobile Service Facilities/Mobile Service Support Structures 82-77(e)	Zero Lot Line Duplexes 82-76 (d)
Model Homes	
(c) Site Plan Approval	
Churches and Community Centers 82-74 (a)	Planned Residential Developments 82-76 (c)
Daycare Centers 82-72 (j)	Post Offices
Golf Courses	Public Boat Launch Facilities
Manufactured Home Parks 82-76 (b)	Public and Private Schools
Manufactured Homes 82-76 (a)	Restaurants or Taverns 82-72 (b)
Multiple Occupancy Developments 82-76 (d)	Town Halls/Community Centers
(d) Conditional Uses	
Entertainment Facility	Passenger Bus Terminals
Fire/Police Stations	Personal Service Establishments
Hospitals	Personal Transport Vendors
Institutional Residential	Professional Office/Studios
Laundromats and Laundry Service	Retail Stores/Showrooms
Libraries/Museums	Utilities Facilities – Type B
Medical/Dental Clinics	

- (e) Accessory Uses. The following uses are allowed in the HD district, subject to other applicable requirements contained in this ordinance.

- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 1200 square feet. In manufactured home parks, 82-76 (b)(12), the accessory structure size is restricted to 120 square feet.
- (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (3) Home Occupations per Sec. 82-72 (f)
- (4) Family Daycare Homes.

(f) Dimensional Requirements. The following requirements apply to the High Density Residential District:

High Density Residential – HD Dimensional Requirements, Setbacks and Height		
Dimensional Requirements		
Lot Width	75'	
Lot Area	16,200 Sq. Ft.	
Max Impervious Surface	35%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	10'	5'
Yards - Rear	25'	5'
Structure Height	35'	20'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-57. Mixed Use Commercial (MC)

- (a) Purpose. This district permits both residential and commercial uses and is designed to accommodate those areas of Calumet County with an existing desirable mixture of uses, or such a mixture of uses is desired. Typically, this district will be located within or near existing communities but it is also intended for outlying or smaller nodes of development. In addition, this district can be used as a transition between business centers and strictly residential areas. Recreational uses such as golf courses, resorts, multiple occupancy developments, marinas and restaurants are also served by this district.

(b) Permitted Uses	
Accessory Residences	Personal Service Establishments
Art Galleries	Post Offices
Banks	Private Lodges and Clubs
Bed and Breakfast Establishment 82-72 (h)	Professional Office/Studios
Boardinghouses 82-72 (i)	Public Boat Launching Facilities
Cemeteries	Restaurants or Taverns 82-72 (b)
Churches and Community Centers 82-74 (a)	Retail Stores/Showrooms

Duplexes	Single Family Residences
Farm Markets 82-71(a)	Taxi and Limousine Service
Laundromats and Laundry Service	Town Halls/Community Centers
Libraries/Museums	Travel Information Centers
Medical/Dental Clinics	Utility Facilities - Type A 82-77 (b)
Mobile Service Facilities/Mobile Service Support Structures 82-77(e)	Veterinarian Clinics
Model Homes	Zero Lot Line Duplexes 82-76 (d)
Parks and Recreational Trails	
(c) Site Plan Approval	
Auto Sales and Service Lot	Passenger Bus Terminals
Daycare Centers 82-72 (j)	Planned Residential Developments 82-76 (c)
Fire/Police Stations	Public Highway Garages
Greenhouses	Public and Private Schools
Home Business 82-72 (g)	Radio/TV Stations
Institutional Residential	Recreational Fishing Equipment Sales
Marinas/Excursion Boating/Charter Fishing	Recreational Vehicle Sales/Service or Model Home/Model Home Sales
Multiple Occupancy Developments 82-76 (d)	Retreat Centers
Municipal/Commercial Parking Lots	Ski Resorts
Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)	
(d) Conditional Uses	
Amusement Park	Lumber/Building Supply Yards
Auto Repair 82-72 (c)	Personal Transport Vendors
Commercial Storage Facilities 82-72 (e)	Wineries/Micro Breweries
Conference Facilities	Freight Terminals
Entertainment Facility 82-72 (m)	Sewage Disposal/Treatment Plants
Farm Implement Sales & Service	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Gas Stations 82-72 (l)	Outdoor Theatre
Grain Mills	Utility Facilities - Type B 82-77 (b)
Golf Courses	Roadside Stands
Hospitals	

- (e) Accessory Uses. The following uses are allowed in the MC district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 1200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupations per Sec. 82-72 (f)
 - (4) Family Daycare Homes.
 - (5) Residences accessory to a permitted use or approved conditional use.
- (f) Dimensional Requirements. The following requirements apply to the Mixed Use Commercial District:

Mixed Use Commercial – MC Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	
Lot Width	100'	
Lot Area	20,000 Sq. Ft.	
Max Impervious Surface	50%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	10'	5'
Yards - Rear	15'	5'
Structure Height	35'	22'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-58. Commercial Center (CC)

- (a) Purpose. This district is intended to provide centers for commercial and mixed-use development and redevelopment. The district permits a wide variety of retail, service, and office uses and is intended to maintain the vitality of Calumet County’s commercial centers. It should be established for the main business districts of existing communities.

(b) Permitted Uses	
Farm Markets 82-71(a)	Taxi and Limousine Service
Art Galleries	Veterinarian Clinics
Banks	Cemeteries
Bed & Breakfast Establishments	Churches and Community Centers 82-74 (a)
Boardinghouses 82-72 (i)	Libraries/Museums
Laundromats and Laundry Service	Post Offices
Medical/Dental Clinics	Town Halls/Community Centers
Model Homes	Travel Information Centers
Personal Service Establishments	Parks and Recreational Trails
Private Lodges and Clubs	Public Boat Launch Facilities
Professional Offices/Studios	Accessory Residences
Recreational Fishing Equipment Sales	Duplexes
Restaurants or Taverns 82-72 (b)	Utility Facilities - Type A 82-77 (b)
Retail Stores/Showrooms	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
(c) Site Plan Approval	
Auto Sales & Service Lot	Multiple Occupancy Developments 82-76 (d)
Conference Facilities	Municipal/Commercial Parking Lots
Commercial Fishing Facilities	Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Daycare Centers 82-72 (j)	Outdoor Theatre
Farm Implement Sales & Service	Passenger Bus Terminals
Fire/Police Stations	Public Highway Garages
Gas Stations 82-72 (l)	Public and Private Schools
Greenhouses	Radio/TV Stations
Home Business 82-72 (g)	Recreational Vehicle Sales/Service or Model Home/Model Home Sales

Hospitals	Retreat Centers
Institutional Residential	Ski Resorts
Lumber/Building Supply Yards	Wineries/Micro Breweries
Marinas/Excursion Boating/Fishing Charter	
(d) Conditional Uses	
Adult Entertainment Establishments 82-72 (k)	Roadside Stands
Animal Shelters and Pounds 82-77 (c)	Personal Transport Vendors
Auto Repair 82-72 (c)	Trade or Contractor Establishments 82-72 (d)
Amusement Park	Sewage Disposal/Treatment Plants
Commercial Storage Facilities 82-72 (e)	Slaughterhouses
Commercial Trucking Establishments	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Entertainment Facility 82-72 (m)	Wholesale Establishments and Distributorships 82-73 (g)
Grain Mills	Utility Facilities - Type B 82-77 (b)
Manufacturing, Assembly, Processing	

- (e) Accessory Uses. The following uses are allowed in the CC district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 1200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupations per Sec. 82-72 (f)
 - (4) Residences accessory to a permitted use or approved conditional use.
- (f) Dimensional Requirements. The following requirements apply to the Commercial Center District:

Commercial Center – CC Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	
Lot Width	65'	
Lot Area	10,000 Sq. Ft.	
Max Impervious Surface	75%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	10'	5'
Yards - Rear	15'	5'
Structure Height	35'	22'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-59. Light Industrial (LI)

- (a) Purpose. This district is intended to provide for small scale manufacturing, mini or low volume warehousing, and other light industrial operations. It is also intended that this district be used for the location of trade or contractor establishments, commercial storage facilities, and similar businesses. Such uses shall not be detrimental to the surrounding area or to the County as a whole by reason of noise, dust, smoke, odor, traffic or physical appearance, degradation of groundwater, or other nuisance factors. Such uses may be subject to requirements, which will reasonably ensure compatibility. This district can also be used for industrial or business parks.

(b) Permitted Uses	
Auto Repair 82-72 (c)	Recreational Fishing Equipment Sales
Farm Implement Sales & Service	Public Highway Garages
Commercial Storage Facilities 82-72 (e)	Fire/Police Stations
Animal Shelters and Pounds 82-77 (c)	Taxi and Limousine Service
Private Lodges and Clubs	Veterinarian Clinics
Professional Offices/Studios	Sawmills / Planing Mills 82-73 (a)
Radio/TV Stations	Temporary MET towers 82-77 (d)
Trade or Contractor Establishments 82-72 (d)	Utility Facilities - Type A 82-77 (b)
Recreational Vehicle Sales/Service or Model Home/Model Home Sales	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Non-commercial Communication Towers, Antennas, Transmitters 82-77 (d)	
(c) Site Plan Approval	
Auto Sales & Service Lot	Home Business 82-72 (g)
Bulk Storage of Fuel Products	Laundromats and Laundry Service
Commercial Fishing Facilities	Manufacturing, Assembly, Processing
Commercial Trucking Establishments	Model Homes
Freight Terminals	Municipal/Commercial Parking Lots
Fruit/Vegetable/Cheese Processing Plants	Permanent MET Towers 82-77 (d)
Gas Stations 82-72 (l)	Retail Stores/Showrooms
Grain Mills	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
Greenhouses	Wholesale Establishments and Distributorships 82-73 (g)
(d) Conditional Uses	
Adult Entertainment Establishments 82-72 (k)	Kennels 82-72 (a)
Airports 82-77 (a)	Nonmetallic Mining 82-73 (b)
Airstrips & Landing Fields, Commercial/Govt. 82-77 (a)	Resource Recovery Facilities 82-73 (e)
Airstrips & Landing Fields, Private 82-77 (a)	Salvage Yards 82-73 (c)
Ammunition Manufacturing and Wholesale Distribution	Sewage Disposal/Treatment Plants
Asphalt/Concrete Plants	Slaughterhouses
Entertainment Facility 82-72 (m)	Solid Waste Facilities 82-73 (d)
Fertilizer Distribution Plants	Utility Facilities - Type B 82-77 (b)

- (e) Accessory Uses. The following uses are allowed in the Light Industrial district, subject to other applicable requirements contained in this ordinance.
- (1) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
- (f) Dimensional Requirements. The following requirements apply to the Light Industrial District:

Light Industrial – LI Dimensional Requirements, Setbacks and Height	
	Dimensional Requirements

Lot Width	200'	
Lot Area	1.5 ac.	
Max Impervious Surface	70%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	40'	25'
Yards - Rear	50'	25'
Structure Height	50'	45'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-60. Industrial (I)

- (a) Purpose. This district is intended to provide for heavy manufacturing, large scale warehousing, and other intense industrial operations. It is also intended that this district be used for the location of large scale trade or contractor establishments, commercial storage facilities, and similar businesses. Such uses shall not be detrimental to the surrounding area or to the County as a whole by reason of noise, dust, smoke, odor, traffic or physical appearance, degradation of groundwater, or other nuisance factors. Such uses may be subject to requirements, which will reasonably ensure compatibility. This district can also be used for industrial or business parks.

(b) Permitted Uses	
Commercial Trucking Establishments	Sawmills / Planing Mills 82-73 (a)
Commercial Storage Facilities 82-72 (c)	Taxi and Limousine Service
Farm Implement Sales & Service	Fire/Police Stations
Grain Mills	Temporary MET Towers 82-77 (d)
Lumber/Building Supply Yards	Permanent MET Towers 82-77 (d)
Radio/TV Stations	Non-Commercial Communication Towers, Antennas, Transmitters 82-77 (d)
Recreational Vehicle Sales/Service or Model Home/Model Home Sales	Utility Facilities - Type A 82-77 (b)
Trade or Contractor Establishments 82-72 (d)	Utility Facilities - Type B 82-77 (b)
Freight Terminals	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Fruit/Vegetable/Cheese Processing Plants	Auto Repair 82-72 (c)
Manufacturing, Assembly, Processing	
(c) Site Plan Approval	
Auto Sales & Service Lot	Home Business 82-72 (g)
Animal Shelters and Pounds 82-77 (c)	Municipal/Commercial Parking Lots
Asphalt/Concrete Plants	Resource Recovery Facilities 82-73 (e)
Adult Entertainment Establishments 82-72 (k)	Salvage Yards 82-73 (c)
Bulk Storage of Fuel Products	Sewage Disposal/Treatment Plants
Fertilizer Distribution Plants	Slaughterhouses
Gas Stations 82-72 (l)	Solid Waste Facilities 82-73 (d)
Greenhouses	Temporary Concrete or Asphalt Batch Plants 82-73 (f)
	Wholesale Establishments and Distributorships 82-73 (g)
(d) Conditional Uses	
Airports 82-77 (a)	Ammunition Manufacturing and Wholesale Distribution

Airstrips & Landing Fields, Commercial/Government 82-77 (a)	Nonmetallic Mining 82-73 (b)
Airstrips & Landing Fields, Private 82-77 (a)	

- (e) Accessory Uses. The following uses are allowed in the Industrial district, subject to other applicable requirements contained in this ordinance.
- (1) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business
- (f) Dimensional Requirements. The following requirements apply to the Industrial District:

Industrial – I Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	
Lot Width	300'	
Lot Area	2 ac.	
Max Impervious Surface	75%	
Max Residential Density	N/A	
Setbacks	Principal	Accessory
Yards – Side & Front	50'	50'
Yards - Rear	100'	50'
Structure Height	50'	45'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		

Sec. 82-61. Natural Area (NA)

- (a) Purpose. This district is intended to conserve the existing, mostly undeveloped natural areas of Calumet County. The district may be used in upland areas adjacent to, or surrounded by wetland areas, or in other areas where natural features are considered significant. To conserve these areas, commercial and industrial uses are disallowed, but general agricultural, passive recreational, and some institutional uses are permitted. This district may also include wetland areas. All wetland areas in this district, which lie in a shoreland area, are subject to the use restrictions identified in Chapter 52, Shoreland Zoning.

(b) Permitted Uses	
Camping 82-75 (b)	Mobile Service Facilities/Mobile Service Support Structures 82-77(e)
Cemeteries	Parks and Recreational Trails
Churches and Community Centers 82-74 (a)	Public Boat Launch Facilities
General Agriculture	Utility Facilities - Type A 82-77 (b)
(c) Conditional Uses	
Bed & Breakfast Establishments	Personal Transport Vendors
Campgrounds and Trailer Camps 82-75 (a)	Public and Private Schools
Commercial Fishing Facilities	Retreat Centers
Commercial Riding Stables 82-75 (c)	Sawmills / Planing Mills 82-73 (a)

Farm Related Residences	Ski Resorts
Greenhouses	Travel Information Centers
Gun Clubs/Shooting Ranges 82-75 (d)	Utility Facilities - Type B 82-77 (b)
Institutional Recreation Camps	Wineries/Micro Breweries

- (d) Accessory Uses. The following uses are allowed in the GA district, subject to other applicable requirements contained in this ordinance.
- (1) Unattached garages for personal storage that are accessory to a permitted residential structure. The total building footprint for all accessory structures shall not exceed 3200 square feet.
 - (2) Other accessory structures and uses that are incidental to the principal use, provided that the structure or use does not include any activity commonly conducted as a business.
 - (3) Home Occupations per Sec. 82-72 (f)
- (e) Dimensional Requirements. The following requirements apply to the Natural Area District:

Natural Area - NA Dimensional Requirements, Setbacks and Height		
	Dimensional Requirements	
Lot Width	600'	
Lot Area	20 ac.	
Max Impervious Surface	15%	
Max Residential Density	1/20	
Setbacks	Principal	Accessory
Yards – Side & Front	25'	25'
Yards - Rear	50'	50'
Structure Height	35'	25'
Road set back: per Sec. 82-31	125' / 100' / 75'	
For accessory buildings less than 200 square feet, the minimum required side yard setback is 5 feet.		
Minor exempt structures are identified in Sec. 82-39(b)(1)		
See Sec. 82-33 for setbacks related to barnyards, feedlots, manure pits and farm structures housing animals.		

Sec. 82-62. Wetland (W) (OVERLAY DISTRICT)

- (a) Purpose. This overlay district is intended to prevent the destruction and depletion of Calumet County’s wetlands; protect watercourses and navigable waters and the public rights therein; to maintain the purity of water and lakes and streams and to prevent pollution thereof; and to protect spawning grounds, fish, and habitat for wild flora and fauna. Furthermore, this district is intended to prevent the changing of the natural character of wetlands. The Wetland district boundaries are intended to follow the delineations on the Wisconsin Wetland Inventory Maps for all wetlands in excess of 2 acres in size. Wetlands less than 2 acres in size may appear as a wetland symbol on the zoning map, but may not necessarily be mapped as being in the Wetland Overlay District. The regulations pertaining to the Wetland Overlay District are in addition to the regulations in the base underlying zoning district and Chapter 52 – Shoreland Zoning of the Calumet County Code. The most restrictive requirements identified within the Wetland Overlay and Base Zoning District shall apply.

(b) Permitted Uses	
(1)	<i>No Permit, No Disturbance.</i> Uses which do not require the issuance of a zoning permit, which must be carried out without any filling, draining, flooding, dredging, ditching, tiling or excavating.
A.	Hiking, fishing, trapping, hunting, swimming and boating.
B.	The harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds in the manner that is not injurious to the natural reproduction of such crops.
C.	The pasturing of livestock.
D.	The cultivation of the agricultural crops.
E.	The practice of silviculture, including the planting, thinning and harvesting of timber.
F.	The construction or maintenance of duck blinds and deer stands.
(2)	<i>No Permit, Limited Disturbance.</i> Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below.
A.	Temporary water and stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
B.	The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries.
C.	The maintenance and repair of existing agricultural drainage systems where permissible by s. 30.20, Wis. Stats., including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredge spoil adjacent to the drainage system, provided that the filling is permissible by Ch. 30, Wis. Stats., and that the dredge spoil is placed on existing spoil banks where possible.
D.	The construction or maintenance of fences for pasturing livestock, including limited excavating and filling necessary for such construction or maintenance.
E.	The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
F.	The maintenance, repair, replacement, or reconstruction of existing town and County highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
(3)	<i>Permit Required.</i> Uses, which require the issuance of a regular zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below.
A.	<i>Roads.</i> The construction and maintenance of roads, which are necessary to conduct silvicultural activities or agricultural cultivation, subject to the following conditions:
	1. The road cannot, as a practical manner, be located outside the wetland.
	2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland.
	3. The road is designed and constructed with the minimum cross section to serve the intended use.
	4. Road construction activities are carried out in the immediate area of the roadbed only.
	5. Roads in the EAW district must meet the requirements of s.91.46(4), Wis. Stats.
B.	<i>Buildings.</i> The construction and maintenance of non-residential buildings, subject to the following conditions:
	1. The building is essential for and is used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals or some use permitted in the Wetland district.
	2. The building cannot, as a practical matter, be located outside the wetland.
	3. Such building is not designed for human habitation and does not exceed 500 square feet in floor area.
	4. Only limited filling or excavating necessary to provide structural support for the building shall be allowed.
	5. Buildings in the EAW district are permitted uses if they meet the requirements of s.91.44, Wis. Stats., or, permitted as conditional uses if they meet the requirements of s.91.46, Wis. Stats.

C.	<i>Recreational and Misc. Uses.</i> The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, and public boat launching ramps and attendant access routes, subject to the following:
1.	Any private wildlife habitat area shall be used exclusively for that purpose.
2.	Filling or excavating necessary for the construction and maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in par. (3), sub. A., <i>Roads</i> .
3.	Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, and game preserves and private wildlife habitat areas is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
4.	In the EAW, such uses are only allowed provided they also meet the requirements of s.91.46(5), Wis. Stats.
D.	<i>Utilities.</i> The construction or maintenance of electric, gas, telephone, water and sewer transmission distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing such services to their members and the construction or maintenance of railroad lines subject to the following standards:
1.	The transmission and distribution facilities of railroad lines cannot, as a practical matter, be located outside the wetland.
2.	Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural function of the wetland.
3.	In the EAW district, such uses are only allowed provided they meet the requirements of s.91.46, Wis. Stats.
(c)	<i>Prohibited Uses.</i> Any use not listed in Sec. 82-24(d), subs. (1) through (3), <i>Uses Pertaining to the Wetland District</i> , is prohibited, unless the wetland or the portion of the wetland has been rezoned by amendment of this chapter in accordance with this chapter and s. 59.69(5)(e), Wis. Stats., additionally for the EAW district, Ch. 91.

Sec. 82-63 - Sec. 82-68. Reserved.

ARTICLE V. PARTICULAR USE REQUIREMENTS

Sec. 82-69. Purpose.

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

Sec. 82-70. Applicability.

In addition to complying with other regulations established in this chapter, these requirements must be met for each specific use as a condition to a regular zoning permit. Uses listed as a conditional use shall also follow these established requirements unless the Calumet County Planning, Zoning and Farmland Preservation Committee finds that compelling evidence, provided by the applicant, shows that a reduction in standard(s) will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety, or character of the surrounding area.

Sec. 82-71. Agricultural Use Requirements.

(a) ***Farm Markets.***

- (1) *Products*. Such use shall principally involve the sale of farm and garden products, but other types of merchandise may be sold, provided such merchandise occupies not more than 30% of the indoor and outdoor display area of the farm market.
- (2) *Parking*. At least 1 off street parking space shall be provided for each 200 square feet of indoor and outdoor display area. All parking shall be provided in accordance with Article VI., *Parking, Loading and Access Requirements*.

(b) ***Urban Agriculture***.

- (1) *Chickens*. No more than 6 chickens are permitted on a property; roosters are prohibited.
- (2) *Rabbits*. No more than 12 adult rabbits are permitted on a property.
- (3) *Bees*. No more than 3 standard hives (colony) are permitted on a property.
- (4) *Urban Agriculture Conditions*:
 - A. A Zoning Permit, authorized by site plan review, is required for the raising and keeping of chickens, rabbits, and bees. A permit may be revoked for failure to comply with provisions of the zoning code and, once revoked, shall not be reissued.
 - C. No animal or hive shall cause any nuisance, unhealthy condition, public threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.
 - D. Animals shall be provided a sanitary and adequately-sized, covered enclosure, or coop, and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure, or yard, at all times.
 - E. Animals raised and kept on the property for food shall not be slaughtered outdoors and products produced shall not be sold on premise.
 - F. Animals and hives are not permitted within a front yard area.
 - G. A covered enclosure, coop or hive shall be setback at least 40 feet from any neighboring residence.
 - H. A covered enclosure, coop or hive shall be setback at least 15 feet from any side or rear property line.
 - I. A flyway zone shall be created for hives to ensure bees enter and leave the hive in a vertical manner.
 - J. Properties where animals are kept shall be kept in a sanitary condition.

Sec. 82-72. Commercial Use Requirements.

(a) ***Kennels***.

- (1) *Hours*. All dogs shall be housed indoors during the hours from 9 p.m. to 6 a.m.

- (2) *Setbacks.* The animal housing units shall be setback at least 200 feet from the side and rear lot lines.
- (3) *Buffers.* All kennels shall be screened from public roads, except that kennels located at least 200 feet from the centerline of public roads are exempt from the public road screening requirement.
- (4) Animals shall be provided a sanitary and adequately-sized covered enclosure and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure at all times.
- (5) Properties shall be kept in a sanitary condition.

(b) ***Restaurants and Taverns.***

- (1) *Setbacks.* If unenclosed seating areas are provided, the seating areas shall be setback twice the distance of the side yard and rear yard requirements for principal structures specified in Article IV, *Zoning District Requirements*. Seating areas shall meet all front yard setbacks.
- (2) *Screening.* All unenclosed seating areas shall be screened from adjacent residential properties by a vegetative screening as described in Sec.82-37, *Landscape Buffers*.
- (3) *Lighting.* Lighting fixtures intended to illuminate unenclosed seating areas shall be placed no higher than 14 feet above the ground and shall be directed and/or hooded such that no light shall be cast upon adjacent properties or upon public roads.
- (4) *Access.* Unenclosed seating areas shall be accessed only through the principal building to which it receives services.
- (5) *Music.* If live music or disc jockey services are to be provided, an acoustic sound barrier shall be installed in the building, and, there shall be no live music or disc jockey services permitted outside the building or transmitted outside the building. Recorded music, played through a satellite receiver, or similar device, may be transmitted outside the building via no more than two speakers, which are positioned away from adjacent properties.

(c) ***Auto Repair.***

- (1) *Repairs.* Only vehicular repair shall be allowed.
- (2) *Storage.* The storage of salvage vehicles is prohibited.
- (3) *Location of Work.* All repair, painting, parts storage and bodywork activities shall take place within a building.
- (4) *Location of Storage.* All damaged or non-operable parts shall be stored indoors or in storage containers. If stored outside in storage containers the containers shall be screened from view from the public right-of-way and adjacent properties.
- (5) *Parking.* The only vehicles allowed to be parked on the site are those vehicles used by employees and vehicles owned by customers awaiting service. No vehicle awaiting service shall be on the property more than 4 days prior to receiving service.

- (6) *Waste and By-Products.* A descriptive indicating how waste oil and other chemicals will be disposed of shall be approved by the Calumet County Emergency Management Coordinator and followed accordingly.

(d) ***Trade or Contractor Establishments.***

- (1) *Storage and Parking.* Except in the Light Industrial and Industrial districts, all outside storage areas and parking of trucks and machinery used in conjunction with the establishment shall be screened from all adjacent properties and public roads by a fence or vegetative screening, as described in Sec. 82-37, *Landscape Buffers*.

(e) ***Commercial Storage Facilities.***

- (1) *Setbacks.* Except in the Light Industrial and Industrial districts, all buildings shall be located a minimum of 50 feet from all lot lines. In the Light Industrial and Industrial districts, the yard requirements listed in *Article IV, Zoning District Requirements*, shall apply.
- (2) *Use.* Commercial storage facilities shall not be used as workshops or retail shops.
- (3) *Storage.* Outside storage shall be prohibited.

(f) ***Home Occupations.***

- (1) *Number.* Only one home occupation shall be permitted on a lot.
- (2) *Location and Size.* Home occupations shall be conducted only inside a dwelling unit and shall not occupy more than an area equal to 20% of the floor area of the dwelling unit.
- (3) *Operator.* The home occupation shall be conducted by a resident of the dwelling unit. Such use shall not employ more than 1 person that is not a resident of the dwelling unit.
- (4) *Sales.* Such use shall not include the conduct of any retail or wholesale business on the premises, except for the sale of services provided or products produced by the home occupation. The sale of products to maintain the good or service produced on the property is allowed, provided said sales do not total more than 10 percent of the annual sales of the home occupation.
- (5) *Nuisance.* Such use shall not include the operation of any machinery, tools, appliances, or other operational activity that would create a nuisance due to the noise, dust, odors, or vibration, or be otherwise incompatible with the surrounding area.
- (6) *Parking.* A minimum of one off-street parking space shall be provided for a home occupation.
- (7) *Signage.* One on-premise sign shall be permitted not to exceed four square feet in sign face area.
- (8) *Use.* The use of a dwelling unit for a home occupation shall be clearly secondary to the residential use of the dwelling unit and shall not change the residential character of the dwelling unit.

(g) ***Home Business.***

- (1) *Number.* No more than two home businesses shall be permitted on a lot.

- (2) *Location and Size.* A home business shall occupy no more than 40% of the floor area of the dwelling unit or 100% of an accessory building up to the total area of the home floor area of the dwelling unit.
- (3) *Operator.* The home business shall be conducted by a resident of the dwelling unit. One additional person that is not a resident may be employed by each home business.
- (4) *Sales.* Only finished consumer goods that have been produced in connection with a home business may be offered for sale. However, the sale of products to maintain the good or service produced on the property is allowed, provided said sales do not total more than 5 percent of the annual sales of the home occupation.
- (5) *Parking.* Off-street parking shall be provided in accordance with the requirements in Article VII., *Parking and Access Requirements.*
- (6) *Signage.* One on-premise sign shall be permitted not to exceed twelve square feet in sign face area.

(h) ***Bed and Breakfast Establishments.***

- (1) *Safety.* All bed and breakfast establishments with sleeping rooms above the ground floor shall provide an outside fire escape or escape balcony from an area accessible to the occupants of the upper floor(s) and appropriate exit signs.

(i) ***Boardinghouses.***

- (1) *Number.* There shall be no more than 4 sleeping rooms provided for boarding.
- (2) *Safety.* All boarding houses with sleeping rooms above the ground shall provide an outside fire escape or escape balcony from an area accessible to the occupants of the upper floor(s) and appropriate exit signs.
- (3) *Size.* All lot size and other dimensional requirements for single family residences shall be met.

(j) ***Daycare Centers.***

- (1) *Access.* Pickup and drop off areas shall not be located within any public road right-of-way.
- (2) *Play Area.* Daycare centers shall provide at least 100 square feet of outdoor play area per child.
- (3) *Safety.* Outdoor play areas shall be enclosed by a wall or fence and shall be separated from vehicular circulation and parking areas.

(k) ***Adult Entertainment Establishments.***

(1) *General Provisions.*

- A. *Number.* Only 1 adult entertainment establishment shall be permitted on a parcel. Said establishment shall be at least 1320' from another adult entertainment establishment.
- B. *Setbacks.* An adult entertainment establishment shall be a minimum of 330' from land located in a Mixed Use Commercial district; 660' from land located in a Wetland,

Exclusive Agricultural Wetland, Natural Area, Exclusive Agricultural, General Agricultural, Heartland, or Small Estate Residential district; and 990' from land located in a Single Family Residential-20,000, Single Family Residential-10,000, High Density Residential, or Recreational Commercial District; and, an establishment shall be at least 3000' from a church, school, daycare center, or public park.

- C. *Beverages.* There shall be no sale of intoxicating beverages on the premises.
- D. *Lighting.* Exterior lighting shall be sufficient to ensure all parking is well lit but shall use hoods and lens which cast light downward.
- E. *Lights.* There shall be no flashing, scrolling, animated or traveling lights visible from outside the building.
- F. *Laws.* The owner and/or operator of the establishment shall agree to comply with all State, Federal, and local laws and ordinances, including obscenity, liquor and cabaret laws, and shall further insure that minors are not permitted on the premises.
- G. *Hours.* The hours of operation for an establishment shall not extend beyond the hours of operation for a tavern in the municipality where the establishment is located.
- H. *Visibility.* No nudity or specified sexual activity, as defined by this chapter, shall be visible beyond the confines of the building housing the establishment.
- I. Adult entertainment establishments shall only be permitted by conditional use permit in the Commercial Center and Light Industrial districts and by site plan review in the Industrial district.

(l) **Gas Stations.**

- (1) *Lot Size.* The parcel shall have a lot area no less than 3 times the area of the building(s) footprint.
- (2) *Gas Pumps.* All gas pumps shall be in islands and shall have a canopy above. Said structures are deemed appurtenant to the principal building and shall meet the setbacks for principal structures in the applicable zoning district.
- (3) *Access and Parking.* A transportation management plan shall be submitted to address access, off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways. Said plan is subject to review by both the County and the local unit of government where the facility is to be established.
- (4) *Lighting.* All lighting shall utilize hoods and lens which cast light downward.
- (5) *Storage.* All areas used for the storage of trash disposal shall be fully screened by a closed fence, which is locked when the trash is not being attended.
- (6) *Miscellaneous Uses.* Car washes, restaurants and/or convenience retail areas are permitted as accessory uses provided they meet the setbacks required for the principal use on the lot.

(m) **Entertainment Facility.**

- (1) All entertainment facilities shall contain all sound above 52 dB(A) from the entertainment within the confines of the property unless specifically permitted or restricted by conditional use permit.

- (2) No music from inside the building shall be transmitted to outside the building by or through the use of loudspeakers, amplification, or any other type of public address system, or by means of leaving open doors or windows.
- (3) The only music permitted outside the entertainment facility building shall be acoustic music produced by acoustical instruments and shall be unplugged and non-amplified. Microphones may only be used to amplify a human voice.
- (4) Unless specifically permitted or restricted by conditional use permit, no outdoor entertainment may proceed prior to 11:00 a.m. and all outdoor entertainment shall cease prior to 11:00 p.m.
- (5) Any outdoor seating associated with the entertainment facility shall be fenced to prevent minors or non-paying patrons from accessing the entertainment and any alcohol sales associated with the facility.
- (6) All lights shall use hoods and lenses that cast light downward and shall be contained on site.
- (7) If there are homes within 500 feet of the entertainment facility, a solid vegetative screen, capable of reaching a height of fifteen feet in five years, shall be installed around the perimeter of the property, excepting for entrances, exits, navigable water and public roads.
- (8) Signs shall be posted to prevent patrons from trespassing, urinating or littering on adjacent private properties.

Sec. 82-73. Industrial Use Requirements.

(a) ***Sawmills / Planing Mills.***

- (1) *Setbacks.* Such uses shall be located a minimum distance of 500 feet from any dwelling unit other than that of the owner or operator of the establishment.
- (2) *Noise.* No sawmill or planing mill shall produce a sound level at its property boundary that exceeds 55 decibels.
- (3) *Stockpiling.* Areas used for stockpiling and maneuvering shall be a minimum distance of 200 feet from any dwelling unit other than that of the owner or operator of the establishment.

(b) ***Nonmetallic Mining.***

- (1) *Purpose.* The purpose of these regulations is to promote public health, safety and general welfare; protect the demand for and economical extraction of nonmetallic minerals; permit the development and utilization of nonmetallic mineral resources in a manner compatible with neighboring land uses; preserve environmentally sensitive areas, such as the south Branch of the Manitowoc River corridor, and the Niagara Escarpment, which is a unique geological formation; avoid the degradation of existing private and public water supplies; and, to minimize potential adverse environmental impacts of nonmetallic mining operations through the use of best management practices.
- (2) *Application.* In addition to the application requirements of Sec. 82-133, *Conditional Use Permits*, all applications for a proposed nonmetallic mining operation shall include the following information:

A. *General Information.*

1. The name and mailing address of the property owner(s), and operator, if different from the owner and the name, address and phone number of the designated contact person for the applicant.
2. The name, address and phone number of an individual who is responsible for the daily operation and maintenance of the site.
3. A signed statement the applicant, owner or operator, if different, is familiar and will be in compliance with the provisions of this section, including the responsibility to pay the required fees and any possible citations, if imposed for a violation, for the administration and effective enforcement of this section.

B. *Site Plan.* A site plan, drawn at a scale of 1" = 200' which produces a clearly legible drawing, which shall include the following:

1. North point, scale, and date.
2. Property boundaries of the operators owned and/or leased land.
3. Location and boundaries of the nonmetallic mining site, including extent of the area to be excavated, related storage, stockpiling and processing areas, the progression of all activities throughout the duration of the permitted activity, and areas where nonmetallic mining refuse is to be deposited.
4. Location of all access points, roads, rights-of-way, and utility easements on or abutting the property.
5. Location of all structures within 500 feet of the mining site.
6. Location and direction of flow of both ground and surface water on or within 300 feet of the mining site, and, the disposition of both ground and surface water. Said location and direction to be portrayed graphically. Maps prepared by the County or State may be used to satisfy this requirement. Maps that are not prepared by the County or State shall be prepared by a qualified professional engineer, geologist or hydrologist.
7. A topographic map, with a contour interval of not more than 2 feet, of the proposed mining site and the area within 300 feet of the mining site.
8. Areas to be used for drainage and erosion control management or sedimentation ponds, if any.
9. Proposed parking areas, signs, and fencing, including a description of the purpose of the fencing.
10. Typical cross section of the site showing the water table.
11. All wetlands on the property shall be staked in the field and identified on the site plan.

C. *Operation Plan.* An operation plan, which shall include a description of the proposed nonmetallic mining operation and methods and procedures to be used in mining the site. The operation plan shall also include the following:

1. A legal description and general location map of the tracts of land involved. If property lines are vague or disputed, the property shall be surveyed and marked by the applicant.
2. The approximate date of the commencement of the operation.
3. Type of mining, processing, and transportation equipment to be used.
4. Estimated type and amount of materials to be extracted.
5. Roads and drives to be used on site, including all points of ingress and egress, and, all primary transportation routes to transport material to State or Federal highways. Access to roads shall not be approved unless written consent is provided by the local jurisdiction.
6. Estimated number of truckloads per day, and estimated weight of material per truckload.
7. Operational measures to be taken to minimize noise, dust, air contaminants, and vibrations.
8. Operational measures to be taken to prevent groundwater and surface water degradation.
9. Measured or estimated depth to groundwater and general groundwater flow direction at the site. Information from the Calumet County groundwater flow maps and aquifer susceptibility maps shall be referenced. If excavations below the water table are to occur, operational measures to be taken to prevent entry of contaminants into the groundwater.
10. Operational measures to be taken to stabilize topsoil and other material stockpiles.
11. Operational measures to be taken to ensure no wetland is disturbed, unless written approval to disturb the wetland(s) is secured from the U.S. Army Corps of Engineers or the Wisconsin Department of Natural Resources.

D. *Drainage and Erosion Control Plan.*

1. All nonmetallic mining operations shall comply with all Wis. State Stats. and the Wis. Admin. Code provisions regulating erosion control measures and water drainage and discharge from the mining site.
2. All nonmetallic mining operations shall comply with Chapter 10, Article II, of the *Calumet County Code of Ordinances* (the *Calumet County Construction Site Erosion Control Ordinance*) and Chapter 10, Article III, of the *Calumet County Code of Ordinances* (the *Calumet County Post Construction Stormwater Management Ordinance*), as applicable.

3. Copies of all required local, County, State or Federal erosion control or runoff management permits shall be submitted to the County prior to the beginning of mining activities.

E. *Reclamation Plan.*

1. At the time of application for the conditional use permit the applicant shall have a Draft Reclamation Plan developed in accordance with specifications provided by the Land and Water Conservation Department. If the conditional use permit is granted, the applicant shall submit a Final Reclamation Plan to the Land and Water Conservation Department, which has been approved by the Department, prior to beginning mining activities.

- F. *Lease(s).* If the mining site is leased to the operator, a letter, which authorizes the operator to enter upon the lessors land for the purpose of nonmetallic mining.

G. *Insurance.*

1. The applicant shall submit a certificate of insurance identifying the County and its elected officials, employees and agents as additional insureds with the following minimum coverage limits:
 - a.) Comprehensive General Liability Insurance, including blanket contractual liability insurance, insuring the applicant's obligation to indemnify the County against liability for personal injury, including death of persons resulting from injuries occurring on or in any way related to the use in the amount of \$1 million per occurrence, with the combined aggregate of \$2 million.
 - b.) Comprehensive General Public Liability Insurance against claims for bodily injury, death or property damage, occurring on, in, or about the permitted premises of not less than \$1 million with respect to bodily injury or death to any one person, with the combined aggregate of \$2 million.

- H. *Additional Information.* By written request the Planning, Zoning and Farmland Preservation Committee may require submittal of such other information as may be necessary to determine the nature of the nonmetallic mining operation and proposed reclamation and the effect on the surrounding area.

(3) *General Requirements.*

- A. *Setbacks.* The setbacks in this section shall apply to all nonmetallic mining activity including the storage of waste materials, stockpiling, inventory, and equipment. The Committee may require greater setbacks for sand and gravel operations in order to protect the integrity of the sloped perimeters from erosion. Berms or other methods of landscaping are exempt from these setbacks.

1. The nonmetallic mining operation shall be located at least 50 feet from all exterior lot lines and at least 100 feet from public road centerline or 25 feet from the road right-of-way, whichever is greater. Adjoining non-metallic mining

operations are not subject to the exterior lot line setback for the lot line that is shared by those operations, if agreed to by the adjoining landowner or operator.

2. No nonmetallic mining operation shall be conducted within 500 feet of a dwelling unit other than that of the owner or operator, unless written permission from the property owner has been obtained by the owner or operator.
 3. No nonmetallic mining operation shall be less than 1200 feet from the perimeter or the property line of an active, inactive or abandoned landfill, unless a hydrogeologic study demonstrates that groundwater contamination will not occur as a result of the activity nor will groundwater flow be disrupted.
- B. *Hours of Operation.* Nonmetallic mining operations of whatever the nature are limited to the hours of 6 a.m. to 6 p.m., Monday through Friday, and 6 a.m. to 2 p.m. on Saturday. Maintenance is allowed outside the approved hours of operation. The hours of operation restrictions may be adjusted to address special circumstances or demonstrated problems by the Committee after notice and a public hearing.
- C. *Dust Control.* The operator shall use industry best management practices in its efforts to control and minimize fugitive dust, including one of the following: landscaped earthen berms, paved entrance roadways, standard methods of water spray, dust covers on transfer points, and contract sweeping, if needed.
- D. *Noise Control.* The applicant shall comply with all applicable noise regulations and industry recommendations, provided such recommendations are not cost prohibitive.
- E. *Vibration and Blasting.* The nonmetallic mining operation and activities shall comply with all Wisconsin State Statutes and Wisconsin Administrative Code provisions pertaining to blasting activities. Upon request by the County, the operator shall submit the blasting logs to the County.
- F. *Groundwater Monitoring.*
1. *Baseline Testing.* The applicant shall send a certified letter to all neighboring properties located within 1000 feet of the proposed perimeter of the operation that have an assessed structure in excess of a value of \$1000. The letter shall notify the owner of the owner's right to have a baseline well test performed within 30 days of receipt of the letter on the landowner's well at the operator's expense. The Baseline test shall include testing for bacteria, turbidity and drawdown. The applicant shall provide a copy of all test results to the owner and County within 10 days of receiving the results.
 2. *Subsequent Testing.* If subsequent test results show that the well is not suitable for use as a result of the mining activity, the applicant shall take all reasonable steps to alleviate any problems including, but not limited to, immediately providing a temporary water source, well repair, or code compliant well replacement. In no case shall bottled water be provided as a permanent solution.
 3. Wells that were not included in the baseline testing, due to the installation date, or an owner indicating a willingness to be exempt from the baseline testing, are not subject to these provisions.

G. *Home Inspections.*

1. To ensure dwellings and structures are not damaged from blasting or vibration, the applicant or their designee shall comply with Wisconsin Administrative Code, Chapter SPS 307, Explosives and Fireworks.
2. The applicant shall maintain a list of all complaints of damage and submit the log to the County upon request. The log shall be accompanied by a descriptive of the applicant's follow-up action.

H. *Spill Prevention.*

1. The applicant shall comply with the applicable State and Federal requirements regarding chemical storage and handling and spill response.
2. All mining operations shall comply with Sec. 18-40 of the *Calumet County Code of Ordinances* (the *Calumet County Illicit Discharge Ordinance*).

I. *Limits of Operation.*

1. For permitted operations which predate this chapter, the extent of mining activity shall be limited to the parameters approved by the original permit.
2. If the mining activity predated the adoption of zoning in the town in which the mining activity is located, the mining activity can continue up to, but not extend past, the lot lines of the tract of land upon which the activity was occurring at the time of adoption of this chapter.

J. *Dumping Prohibited.* The owner and/or operator of a nonmetallic mining operation shall not place, or allow to be placed, junk material into or outside of the nonmetallic mining site.

K. *Landscaping and Screening.* A berm shall be installed around the perimeter of the operation, except for entrances and exits, in compliance with the following:

1. The berm shall be installed within 14 days of stripped overburden and topsoil becoming available from the quarry site or from suitable outside sources. The berm can be installed in phases as material becomes available.
2. Only clean overburden from the mining site or suitable outside sources shall be used in constructing the berm.
3. The berm shall be at least 10 feet above the surface of the center of the adjacent public road or property line.
4. The berm shall be constructed so as to not result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation.

(4) *Permits.*

A. *Permit Review.* Provided the application demonstrates compliance with the provisions of this section, a conditional use permit application shall be scheduled for a public hearing and processed accordingly with Sec. 82-133, *Conditional Use Permits*. When reviewing the application, the Committee shall consider, as a minimum, the following:

1. The appropriateness of the proposed operation in relation to the existing nearby land uses.
2. Any applicable recommendations of the *Natural Resources Conservation Service Technical Guide*.
3. The effect of the proposed operation upon existing private and public water quality and quantity.
4. The economic impact of the proposed operation on private enterprises and local government (e.g. road repair expenses).
5. The effect of the proposed operation on public health and safety.
6. The location of, and effect upon, the proposed operation with respect to floodplains, floodways, drainage paths, and shorelands.
7. Evidence no wetlands will be filled or negatively impacted as a result of the mining activity.
8. For operations located in an Exclusive Agricultural district, said operation shall also satisfy the requirements of s. 91.47(6), Wis. Stats.

B. *Duration, Renewal and Transfer of Permit.* Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the Committee may impose conditions such as duration, transfer or renewal in addition to other conditions identified in this ordinance. Upon transfer or change of ownership, a new owner assumes the responsibility outlined in the conditional use permit or conditions thereof as imposed by the Committee.

(5) *Mining Site Enlargement.* Any proposed mining site enlargement shall be processed as a new application pursuant to this section. All provisions of this section shall apply to the proposed enlargement.

(6) *Failure to Open and Operate.* Failure of an operator to take substantial steps to open and operate a mining site within 1 year of the initial permit issuance shall invalidate the permit.

(c) ***Salvage Yards.***

(1) *Setbacks.* Salvage materials shall not be located within 600 feet of a public road right-of-way and shall be setback from all side and rear yards a minimum of 100 feet.

(2) *Environmental Protection.* Salvage materials shall not be located in a wetland, floodplain, or on karst features considered highly susceptible to groundwater contamination, as determined by the Calumet County Water Resource Specialist.

- (3) *Screening.* Salvage materials shall be enclosed by a suitable fence or vegetative screen so the materials are not visible from other property in the vicinity of the salvage yard, nor from a public road, nor from navigable water. The fence or vegetative screen shall be a minimum of 8 feet in height and shall be properly maintained to satisfy the obscuring objective. Said screening shall be in addition to any buffer requirements specified in Sec. 82-37, *Landscape Buffers*. Fences can not exceed 9 feet in height, unless authorized by a variance.
- (4) *Height of Material.* Salvage materials shall not be piled higher than the height of the fence or vegetative screen.
- (5) *Safety.* For fire protection, an unobstructed fire break shall be maintained, 15 feet in width and completely surrounding the salvage yard.
- (6) *Contamination.* Appropriate measures shall be taken to prevent water and soil contamination from oils, gasoline, grease, or other contaminants. At a minimum, there shall be 5 feet of soil between the water table or bedrock. If wells are located within 1,000 feet of the site, the Planning, Zoning and Farmland Preservation Committee may require a liner and bonds for removal of contaminated topsoil. In addition, said salvage yard shall be inspected by the Fire Chief to determine compliance with NFPA1, SPS 314 or other applicable codes.
- (7) *Disposal.* A description indicating how waste oil and other chemicals will be disposed of shall be approved by the Calumet County Emergency Management Coordinator and followed accordingly. Calumet County reserves the right to periodically inspect the property to determine compliance with said approved description.

(d) ***Solid Waste Facilities.***

- (1) All Solid waste facilities shall be in full compliance with Chapter 54 - Solid Waste, of the Calumet County Code.

(e) ***Resource Recovery Facilities.***

- (1) *Screening.* Such facilities, which are visible from public roads, shall be screened by a vegetative screen, as described in Sec. 82-37, *Landscape Buffers*.
- (2) *Storage.* Unless contained in a dumpster or similar metal, covered container, there shall be no outside storage of any material.
- (3) *Cleanliness.* The premises shall be kept in a tidy manner free of litter.
- (4) *Access.* The site shall be located adjacent to, and served by, a County, State or Federal highway. Local roads can be used for in place of a County, State or Federal highway if the responsible road authority grants written permission for such use at the proposed location.
- (5) *Setbacks.* The site shall be at least 1000 feet from a residence not owned by the operator.

(f) ***Temporary Concrete or Asphalt Batch Plants.***

- (1) *Authorization.* Such facilities shall be erected only in conjunction with transportation improvements in Calumet County.

- (2) *Application.* In addition to the application requirements established in Sec. 82-133, *Conditional Use Permit*, the following information shall be submitted with the application:
 - A. Plans for controlling erosion of stockpiled material in manufacturing concrete or asphalt.
 - B. Restoration plans for the site, which describes or illustrates measures taken to restore the site to a condition of practical usefulness and reasonable physical attractiveness. The restoration plan shall describe methods for establishing vegetative cover on all exposed soil.
- (3) *Permits.* Conditional use permits granted for temporary concrete or asphalt batch plants shall be only for the period of the actual project work.
- (4) *Removal.* Temporary concrete or asphalt batch plants shall be removed from the premises within 60 days of completion of the project.

(g) Wholesale Establishments and Distributorships.

- (1) *Lot Area.* The parcel shall have a lot area no less than 4 times the area of the building(s) total footprint.
- (2) *Access.* The site shall be located adjacent to, and served by, a County, State or Federal highway. Local roads can be used in place of a County, State or Federal highway if the responsible road authority grants written permission for such use at the proposed location.
- (3) *Parking and Loading.* A transportation management plan shall be submitted to address off-street parking, loading and unloading, traffic control and the impact of the facility on surrounding roadways.
- (4) *Loading Location and Screening.* All loading and unloading facilities shall be located on the side or rear of the structure(s) utilized for loading and unloading and shall be screened from view from residential uses.
- (5) *Lighting.* All lighting shall utilize hoods and lens which cast light downward.
- (6) *Retail Sales.* A retail sales area may be allowed as an accessory use provided the sales are limited to the sale of goods wholesaled or distributed on the property and the retail sales area does not occupy more than 10 percent of the total floor area of the principal structure(s) used for the wholesale or distributorship use.

Sec. 82-74. Institutional Use Requirements.

(a) Churches and Community Centers.

- (1) *Lot Area.* The parcel shall have a lot area no less than 4 times the area of the building footprint.
- (2) *Access.* A transportation management plan shall be submitted to address off-street parking, traffic circulation and the impact of the facility on surrounding roadways.
- (3) *Setbacks.* All related on site uses, such as residential quarters, daycares, and schools shall be subject to the setbacks and other requirements for principal structures in the applicable zoning district.

Sec. 82-75. Outdoor Recreational Use Requirements.

(a) *Campgrounds and Trailer Camps.*

- (1) *Site Surface.* Each recreation vehicle, trailer, or camp site shall be plainly marked and surfaced with gravel, asphalt, or other material to free the site of mud.
- (2) *Number.* The maximum number of recreational vehicles, trailers, or camp sites shall be 15 per acre.
- (3) *Parking.* There shall be 2 off-street parking spaces for each recreational vehicle, trailer, or camp site. If other uses are on the property, such as a restaurant, additional parking shall be installed for the applicable land use.
- (4) *Setbacks.* All recreational vehicles, trailers, or camp sites shall meet the required setback from roads and shall be located at least 50 feet from all exterior lot lines.
- (5) *Screening.* Each recreation vehicle park, trailer park, or campground shall be screened by means of a vegetative screening, as described in Sec. 82-37, *Landscape Buffers*, along all lot lines. Such requirements may be waived by the Code Administrator, if existing woody vegetation is such that the screening objective is or will be achieved.
- (6) *Acreage.* The minimum size of a recreational vehicle park, trailer park or campground shall be 5 acres.
- (7) *Seasonal Sites.* Seasonal campsites shall be allowed subject to the following:
 - A. *Number.* No more than 1 wheeled camping unit or other shelter unit shall be allowed on any individual campsite
 - B. *Size.* A seasonal camping unit shall not exceed 400 square feet in floor area nor 8 foot 6 inches in width when in the in transit position.
 - C. *Occupancy.* A seasonal camping unit shall not be occupied for more than 6 months in a calendar year, although the camping unit may remain on an individual campsite for an entire calendar year. The wheels and tires shall remain in a transit position.
 - D. *Appurtenances.* No porches, lean-tos, or additions shall be constructed onto or immediately adjacent to a camping unit. Canvas screen rooms or awnings shall be allowed.
 - E. *Decks.* A wooden deck not exceeding 256 square feet in area may be provided adjacent to a camping unit.
 - F. *Sheds.* One storage shed shall be allowed per campsite. Said shed shall not exceed 80 square feet in floor area.
- (8) *Shelters.* A sheltered unit up to 300 square feet may be located on an individual campsite provided it is designed only to protect occupants from the elements and does not have a permanent water supply, a sewage system, electricity, or heating and cooking facilities.

- (9) *Owners Quarters.* One dwelling unit to be occupied by the owner and not more than 1 additional dwelling unit to be occupied by the manager shall be allowed in a campground.

(b) ***Camping.***

- (1) *Campgrounds.* Camping shall be permitted in approved campgrounds without issuance of a regular zoning permit.
- (2) *Camping on Lot.* Camping on a lot by 1 camping party shall be allowed without issuance of a regular zoning permit, subject to the following:
- A. *Acreage.* Such camping shall be allowed in the Natural Area, Exclusive Agricultural, General Agricultural, Heartland, and Small Estate Residential districts provided that the lot is at least 1 acre in area.
- B. *Sanitation.* Sanitary waste disposal shall be provided by either:
1. Connection to an approved on-site waste disposal system.
 2. Self-contained holding tank with disposal at an approved sanitary dump station.
 3. A portable toilet with disposal at an approved sanitary dump station.
- C. *Setbacks.* The camping unit shall be located at least 25 feet from all lot lines, at least 50 feet from any dwelling unit other than that of the landowner upon which the camping unit is placed and shall meet the required road setback.
- D. *Camping Stay.* Camping shall not exceed 15 consecutive days or nor more than 30 days in any calendar year.
- E. *Removal and Storage.* The camping unit shall be removed or stored inside a building after each camping stay.

(c) ***Commercial Riding Stables and Private Riding Stables.***

- (1) *Acreage.* Minimum lot size for riding stables shall be 5 acres for commercial riding stables and 2.5 acres for private riding stables.
- (2) *Open Space.* There shall be at least 20,000 square feet of open space provided on the lot for each horse kept on the lot.
- (3) *Water Setback.* All stables shall be located at least 100 feet from the ordinary high watermark of navigable water and shall be located such that manure will not drain into navigable water.
- (4) *Dwelling Setback.* All stables shall be located at least 200 feet from a dwelling unit other than that of the owner or operator of the establishment.

(d) ***Gun Clubs/Shooting Ranges.***

- (1) *Evaluation.* In granting a Conditional Use Permit for gun clubs and shooting ranges, the Planning, Zoning and Farmland Preservation Committee shall evaluate:

- A. Potential Hazards to adjacent uses.
 - B. Topography and ground cover.
- (2) *Firing Limitations.* The firing of rifled arms and shotgun slugs shall not be permitted directly toward or over navigable water; a State DNR designated wetland in excess of 2 acres in size; public or private roads or drives; toward any building or structure nor directly toward any area with a residential density equal to or higher than 1 unit per 10 acres which is located within 1½ miles, nor within ½ mile of a residence.
- (3) *In General.* The site shall be equipped with the following.
- A. An adequate shotfall or bullet impact area.
 - B. A defined firing line or firing direction.
 - C. Adequate target backstops for the firing of rifled arms.
 - D. No shooting activity between 10:00 p.m. and 8:00 a.m.
 - E. Shooting ranges shall be clearly identified by signs not less than 4 square feet in gross area located at intervals not more than 25 yards around the perimeter, and ranges shall be securely fenced off from adjacent lands and waters.
- (4) *Lot Size.* The minimum lot size shall be the greater of the following: The minimum lot size requirement in the table in Sec. 82-31(c), District Requirements, or, the area large enough to accommodate the applicable shooting ranges below, including direct fire zone and/or shotfall zone, safety zone, ricochet zone, subject to the installation of additional baffles.
- A. *High Power Rifle.*
 - 1. Minimum range length: 5,500 yards.
 - 2. Minimum range width: 3,500 yards.
 - 3. Minimum acreage: 380 acres.
 - B. *Shotgun.*
 - 1. Minimum range length: 300 yards.
 - 2. Minimum range width: 400 yards.
 - 3. Minimum acreage: 40 acres.
 - C. Other range types are subject to the Wisconsin Department of Natural Resource Strategic Guidance 2014-2019; Shooting Ranges in Wisconsin; or successor guidance document.
 - D. The range sizes listed above may be lessened through the use of baffles and berms along the sides, the end and throughout the firing range and/or shotfall zone. Baffles and berms shall meet or exceed the standards listed in the Wisconsin Department of Natural Resource Strategic Guidance 2014-2019; Shooting Ranges in Wisconsin; or successor guidance document, to qualify for a reduction in range size.
- (5) *Setbacks.*

- A. No part of any shooting range may be located within 1/2 mile of any residential dwelling or other structure used for human occupancy.
- B. Accessory buildings, such as club houses, shall meet the same setbacks as a principal structure in the applicable zoning district.

Sec. 82-76. Residential Use Requirements.

- (a) ***Manufactured Homes.*** The following requirements apply to manufactured homes, which are not located in manufactured home parks.
 - (1) *Foundation.* The towing and transportation equipment, including the wheel assembly, shall be removed and the manufactured home shall be mounted on and attached to a permanent foundation.
 - (2) *Size.* Manufactured homes shall be a minimum of 14 feet wide and shall meet the minimum required floor area for dwelling units in Sec. 82-35, *Floor Area Requirements.*
- (b) ***Manufactured Home Parks.***
 - (1) *Street Width.* Internal streets shall have a minimum right-of-way of at least 40 feet.
 - (2) *Surfacing.* Internal streets and parking areas shall be surfaced with a dust free material.
 - (3) *Parking.* There shall be at least 2 parking spaces for each manufactured home site.
 - (4) *Separation.* The minimum distance between manufactured home units, including all appurtenances, shall be 15 feet.
 - (5) *Setbacks from Street.* The minimum distance between a manufactured home unit, including all appurtenances and an internal street shall be 10 feet.
 - (6) *Miscellaneous Uses.* No sales office or other business or commercial use shall be located within a manufactured home park. Laundries, washrooms, recreation rooms, maintenance equipment storage and one management office are permitted.
 - (7) *Screening.* Each manufactured home park shall be screened, except for permitted entrances and exits, by means of a vegetative screen, as described in Sec.82-37, *Landscape Buffers*, at the perimeter of the manufactured home park. The requirement may be waived by the Code Administrator if existing woody vegetation is such that the screening objective is or will be achieved.
 - (8) *Size.* Manufactured homes in manufactured home parks shall contain at least 550 square feet of floor area.
 - (9) *Rental.* No manufactured home site shall be rented for a period of less than 30 days.
 - (10) *Decks.* Deck(s) shall be permitted on each manufactured home site. The total size of the deck(s) shall not exceed 25% of the floor area of the manufactured home. Deck(s) shall comply with the setback and yard requirements for manufactured homes in approved manufactured home parks. Decks require the authorization of a regular zoning permit.

- (11) *Size of Appurtenances.* The total floor area of additions such as screen porches, lean-tos, or other extensions attached to a manufactured home shall not exceed 5% of the floor area of the manufactured home.
- (12) *Sheds.* One accessory structure shall be permitted for each manufactured home site and shall not exceed 120 square feet in floor area. Accessory structures allowed under this provision shall be located a minimum of 10 feet from the manufactured home on the same manufactured home site and shall be located a minimum of 15 feet from a manufactured home or an accessory structure on another site.
- (13) *Codes.* All manufactured homes shall meet the construction standards of the *U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.*
- (14) *Relocation.* No permit shall be required to move or interchange a manufactured home for another manufactured home in a manufactured home park that has been approved in accordance with all applicable provisions of this chapter.
- (15) *Access.* All manufactured home sites shall take access only to an internal street.

(c) Planned Residential Developments.

- (1) *Purpose.* The Planned Residential Development option is intended to give landowners greater flexibility in developing tracts of land on a project basis by relaxing the various lot area, lot width, setback, yard, and other regulations.
 - A. *Benefits.* The Planned Residential Development option is intended to promote the benefits of:
 1. Coordinated area site planning.
 2. Diversified location of structures.
 3. Safe and efficient pedestrian and vehicular traffic systems.
 4. Open spaces.
 5. Economical arrangement of public and private utilities and community facilities.
 6. Preservation of natural resources and agricultural land.
- (2) *Minimum Requirements.* The following minimum general requirements shall apply:
 - A. *Site Area.* The area of the proposed Planned Residential Development site must meet the minimum site area requirement established in Article IV, Zoning District Requirements.
 - B. *Development Requirements Relaxed.* Individual residential uses and structures of a Planned Residential Development shall comply with all of the requirements and provisions of this chapter, except that individual uses and structures need not comply with the following requirements:
 1. Minimum lot area, except as provided in sub. F., *Minimum Lot Size.*

2. Minimum lot width.
 3. Minimum yard requirements, provided that there is at least 10 feet between detached dwelling units and provided the development meets the yard requirement for the perimeter of the site listed in Article IV, *Zoning District Requirements*.
 4. Impervious surface ratio provided the development as a whole does not exceed the maximum impervious surface ratio for the zoning district in which the development is located.
 5. Setback from roads, provided that all structures are located at least 15 feet from the right-of-way of interior roads, and provided that all structures meet the requirements of Sec. 82-31, *Setbacks from Roads*, for all perimeter and through roads.
 6. Woodland clearing provisions, provided that the development as a whole meets these provisions.
- C. *Open Space*. The site area used to calculate the required preserved open space and the maximum residential density of the development shall not include any land used for non-residential development.
- D. *Sanitation*. Water supply and sewage disposal shall meet the minimum standards of the Wisconsin Department of Natural Resources, the Wisconsin Department of Safety and Professional Services, and the *Calumet County Sanitary Ordinance*, or its successor code, as appropriate.
- E. *Density*. Residential density shall not exceed the maximum allowed for Planned Residential Development in the zoning district in which the development is located. For Planned Residential Developments that cross zoning district boundaries, maximum density for the development shall be determined by prorating the maximum density of each applicable zoning district.
- F. *Minimum Lot Size*. The minimum lot size for individual lots in a Planned Residential Development shall be 7,500 square feet. Overall, the lot size shall be at least 200 feet in width or 2 acres in area.
- G. *Wetlands*. Land located within the Wetland district:
1. Shall not be included in determining the maximum residential density of the Planned Residential Development.
 2. May be included in meeting the minimum site area requirement.
 3. May be included in meeting the minimum preserved open space requirement.
- H. *Site Plan*. All development within a Planned Residential Development shall conform with a submitted site plan, which meets the requirements of this chapter.

- I. *Non-Residential Use Restricted.* Except for home occupations, individual lots or dwelling units within a Planned Residential Development shall not be converted to or used for a non-residential use.
 - J. *Access Restricted.* Not more than 2 lots for Planned Residential Development shall have direct access to an existing State or County road. All additional lots shall have access by an internal subdivision road.
- (3) *Preserved Open Space.* The size and shape of areas established as preserved open space shall be sufficient and suitable for agricultural, recreational, or other permitted uses in preserved open space.
- A. *Size.* Except for open space used for walkways, stormwater ponds or subsurface sanitary facilities, the minimum size of a preserved open space area shall be 2 acres and 200 feet of width for developments with a total site area of 20 acres or more, and 20,000 square feet and 100 feet of width for developments with a total site area of less than 20 acres.
 - B. *Guarantees.* There shall be adequate guarantees for retention of preserved open space and perpetuity through the use of a reservation of development rights agreement, as provided in Sec. 82-76(c)(5), *Agreement*.
 - C. *Ownership.* Ownership, tax liability, and maintenance of private open space shall be established in a manner acceptable to the County.
 - D. *Permitted Uses.* The following uses are permitted in preserved open space provided they are allowed by the underlying zoning district and provided they meet all other requirements of this chapter:
 - 1. The maintenance and protection of natural resources in the manner and to the extent required by Article IX, *Natural Features Protection Requirement*.
 - 2. Passive Recreational Uses which involve the creation and/or maintenance of the very negligible impervious surfaces, such uses including arboretums, hiking, natural areas, wildlife sanctuaries, picnic areas, public and private parks, garden plots and beaches.
 - 3. General agricultural and tree/shrub nursery uses, including the sale of produce or plants grown on the premise.
 - 4. Stormwater ponds
 - E. *Building Sites as Open Space.* The area, or portions thereof, of building sites shall not be counted toward the minimum preserved open space requirement.
- (4) *Agreement.* Reservation of development rights agreement shall:
- A. *Open Space.* Be required for the minimum preserved open space area of a Planned Residential Development.
 - B. *Future Development.* Restrict future development of any residential, commercial or industrial structures and uses.

- C. *Agricultural Development.* Not restrict future development of any structures used for general agricultural or tree/shrub nursery uses.
- D. *Public Purposes.* Not restrict future use of the property for public purposes.
- E. *Grantee.* Be granted to the County and shall run with and bind the land.

Note: Such grant shall be in the form of a deed restriction, filed with the County, prohibiting future development in the preserved area.

- F. *Reservation Release.* The grantor shall retain the right to petition the County Board of Supervisors for release (partial or entire) of the reservation of development rights in the event the zoning district classification of the property is changed.

(5) *Application.* In addition to the information required in Sec. 82-133(b), *Application*, the application for a Planned Residential Development shall contain the following:

- A. *Area Information.* Information on the total area of the site, area of preserved open space, residential density, number of dwelling units, and other data necessary to fully describe the project.
- B. *Restriction Information.* Information regarding any intended deed restrictions and establishment of any property owners associations.
- C. *Map.* Accurate map(s) and site plan of the project site showing the following:
 - 1. Location of the project site and abutting properties.
 - 2. The location of public and private roads, driveways, and parking areas.
 - 3. The location, size, and arrangement of proposed lots.
 - 4. The proposed location of structures.
 - 5. The location of preserved open space areas and areas reserved or dedicated for public uses such as parks or schools.
 - 6. Location of present or proposed wastewater disposal system(s).
 - 7. Existing topography and proposed topography changes.
 - 8. Existing surface water drainage pattern and proposed surface water drainage system.
 - 9. Upon written request, other information required by the Code Administrator or Planning, Zoning and Farmland Preservation Committee to determine compliance with the requirements of this chapter.

(6) *Permit Requirements.*

- A. *Permits Required.* A conditional use permit for a Planned Residential Development shall establish the right to develop the dwelling units and structures that are described in the

approved site plan. However, a regular zoning permit shall be required for the construction of each individual structure.

- B. *Expiration.* A conditional use permit to establish a Planned Residential Use shall expire 12 months from the date of issuance unless both the reservation of development rights agreement for the preserved open space and the proposed lots within the development have been recorded in the Calumet County Register of Deeds.
- C. *Construction Period.* No construction activities shall be commenced prior to the reservation of development rights agreement being recorded.

(d) ***Zero Lot Line Duplexes.***

- (1) *Sanitation.* For existing structures, a code compliant joint private on-site waste water treatment system is encouraged.
- (2) *Floor Area.* Each single family unit shall have a minimum of 7250 square feet of lot area devoted to each unit.
- (3) *Dividing Line.* A common lot line, unit division line, or limited common element line between units shall be consistent with the shape of the lot and the design of the structure. Divisions or dividing lines that create irregular angles off the front or back of the structure are prohibited.
- (4) *Setbacks.* All external portions of the building, including appurtenances, shall meet the same setbacks as required for a single family residence in the applicable zoning district.

(e) ***Multiple Occupancy Development Requirements.***

- (1) *Categories.* Multiple occupancy developments shall be divided into 4 categories:
 - A. *Category I.* Developments in which the floor area of each occupancy unit is less than 450 square feet in area.
 - B. *Category II.* Developments in which the floor area of each occupancy unit is 450 to 825 square feet in area.
 - C. *Category III.* Developments in which the floor area of each occupancy unit is more than 825 square feet in area.
 - D. *Category IV.* Developments with a combination of Category I, Category II and/or Category III occupancy units.
- (2) *Lot Requirements.*
 - A. *Unsewered Areas.* The minimum lot size requirements for multiple occupancy developments in unsewered areas shall be 1 acre in area and 100 feet of lot width.
 - B. *Sewered Areas.* For areas served by public sewer, any building site meeting the minimum lot size requirements of Article IV, *Zoning District Requirements*, or, Sec. 82-87 of this Chapter may be used for multiple occupancy developments.

- C. *Net Lot Area.* The net lot area of a multiple occupancy development shall not be reduced if a violation of the density limitations of sub. (d) , *Density*, would result.
- (3) *Mixed Uses.* Uses other than occupancy units, if permitted in the subject district, may be located on the same lot as the multiple occupancy development, provided there is adequate lot area.
- (4) *Density.* The maximum residential density of a multiple occupancy development shall be based upon the net lot area and category of the multiple occupancy development, as provided in pars. (a), *Categories*, and (b), *Lot Requirements*.
- A. *How Calculated.* The maximum number of occupancy units that may be allowed in Category I, Category II, and Category III developments shall be determined by dividing the square footage of the net lot area by the density ratio for the appropriate category. Fractional results shall be rounded down to the nearest whole number:

Category	Density Ratio/Assignable Lot Area for Each Occupancy Unit
I	2,723 square feet
II	3,630 square feet
III	10,890 square feet

- B. In a Category IV development, the number of Category I, Category II, and Category III occupancy units may vary. Density determination shall be based on the rule that the number of Category I occupancy units times 2,723 square feet per occupancy unit plus the number of Category II occupancy units times 3,630 square feet per occupancy unit plus the number of Category III occupancy units times 10,890 square feet per unit shall not exceed the net lot area of the site.
- (5) *Impervious Surface Ratio.* For unsewered multiple occupancy developments the impervious surface ratio shall not exceed 45%; for sewerred multiple occupancy developments the impervious surface ratio shall not exceed those listed in Sec. 82-31(c), *Table of District Requirements*.
- (6) *Parking.* Off street parking spaces shall be provided on the lot at a rate of 1.3 spaces for each Category I unit, 1.6 spaces for each Category II unit, and 2 spaces for each Category III unit. Fractional results shall be rounded up to the nearest whole parking space. All parking facilities shall follow the parking requirements in Article VII, *Parking and Access Requirements*.
- (7) *Building and Siting.* Buildings may be clustered on a lot, but shall be separated from each other by a distance of at least 20 feet or as required by local fire inspector or the Wis. Admin. Code, whichever is greater.
- (8) *Minimum Yards.* The minimum yards shall be as required by Article IV, *Zoning District Requirements*.
- (9) *Accessory Buildings.* The total number of accessory buildings shall be limited to 2 or the number of multiple occupancy development building units on the lot, whichever is greater. The total combined building footprint of all accessory buildings shall not exceed 70% of the total building footprint of all multiple occupancy development buildings.

- (10) *Category I Occupancy Unit Limitation.* In the High Density Residential District, the number of Category I occupancy units shall not exceed 50% of the total number of occupancy units within the development.

Sec. 82-77. Miscellaneous Use Requirements.

(a) Airports, Airstrips, and Landing Fields.

- (1) *Authorization.* All airports, airstrips and landing strips shall be authorized by the Federal Aviation Administration and the Department of Transportation Division of Aeronautics, if applicable.
- (2) *Site Area.* The area proposed shall be sufficient in size to accommodate the performance of the plane(s), or, if required by the Federal Aviation Administration or the Department of Transportation Division of Aeronautics, the site authorized shall be adequate to meet the standards of the Federal Aviation Administration and the Department of Transportation Division of Aeronautics for the class of airport, airstrip or landing field proposed.
- (3) *Parking.* One off-street parking space shall be required for every tie-down space or plane space within hangars located at public airports. Vacant tie-down areas or compacted stone or concrete parking areas adjacent to hangars can be utilized to meet the parking requirements of this section.

(b) Utility Facilities.

(1) General Requirements for all Utility Facilities

1. *Exemptions.* No zoning permit shall be required for any installation that is at or below grade elevation, nor for electrical poles, towers, and wires.
2. *Partial Exemptions.* Those structures, which are 4 feet or less above grade elevation, need not meet setback requirements nor need they be placed on conforming lots.
3. *Security.* Utility facilities and structure must be protected by security measures sufficient to deter the general public from obtaining access to the facility and structure.
4. *Screening.* All utility facilities shall be screened from all adjacent properties and public roads by a closed fence or by vegetative screening as described in Sec. 82-37, *Landscape Buffers*.

(2) Utility Facilities - Type A

- a. Except in the EA and EA-P districts, which require a conditional use permit, Utility Facilities - Type A require the authorization of a regular zoning permit unless specifically exempted in this Chapter.
- b. Utility Facilities – Type A may be permitted on lots less than the required lot area and lot width shown in Article IV, *Zoning District Requirements*, provided, they are situated on a lot of sufficient size to accommodate the development, future expansion, parking, and all applicable setbacks, open space, and impervious surface requirements for the zoning district the utility is permitted.

(3) Utility Facilities - Type B

- a. Except in the LI and I districts, which require a regular zoning permit, Utility Facilities - Type B Require the authorization of a conditional use permit unless specifically exempted by State or Federal law or by this Chapter.
 1. The Planning, Zoning and Farmland Preservation Committee may place conditions upon a Utility Facility Type B, based upon substantial evidence, which:
 - a. Serves to preserve or protect the public health or safety.
 - b. Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - b. Utility Facilities – Type B shall be placed on a tract, or tracts, of land that provide sufficient area to accommodate the development, future expansion, parking, and all applicable setbacks, and open space and impervious surface requirements. The tract, or tracts, of land shall also be proportional to the scale and scope of the proposed project in relation to existing and planned development patterns and the surrounding rural character as determined by the Planning, Zoning and Farmland Preservation Committee.
 - c. Utility Facilities – Type B are exempt from the impervious surface standards of this chapter if a vegetative infiltrative surface exists beneath the Utility Facility. The vegetative surface shall include native pollinator friendly species of plants.

(c) ***Animal Shelters and Pounds.***

- (1) *Housing.* All animal shelters and pounds located in the Commercial Center district shall house all animals indoors.
- (2) *Setbacks.* All structures associated with animal shelters and pounds located in the Commercial Center district shall be at least 50 feet from all side and rear lot lines.
- (3) *Setbacks.* All structures associated with animal shelters and pounds located in the General Agricultural and Heartland districts shall be at least 200 feet from all side and rear lot lines.
 - 1.
 - (4) Animals shall be provided a sanitary and adequately-sized covered enclosure and shall be kept in a fenced enclosure at all times.
 - 2.
 - (5) Properties shall be kept in a sanitary condition.
- (6) *Screening.* All animal shelters and pounds with outdoor housing of animals shall be screened from all adjacent properties and public roads by a closed fence or by vegetative screening as described in Sec. 82-37, *Landscape Buffers*.

(d) ***Meteorological Towers and Non-commercial Telecommunication Towers, Antennas, and Transmitters.***

- (1) *Permit Required.* Unless a conditional use permit or site plan review is required by Article IV, *Zoning District Requirements*, a regular zoning permit shall be required for all non-communication towers, antennas, transmitters and all meteorological towers, except no permit

shall be required for non-commercial communication towers, antennas, and transmitters which are less than 75 feet in height. Antennas added to existing approved telecommunication towers or structures need the authorization of a regular zoning permit.

- (2) *Exemptions.* The following are exempt from the requirements of this section:
- A. *Small Satellite Dishes.* All satellite dishes less than 2 feet in diameter.
 - B. *Personnel Antennas.* Television antennas, satellite dishes, and receive-only antennas provided that they are for personal use of the landowner, the primary use of the property is not a telecommunication facility, and the antenna use is accessory to the primary use of the property.
 - C. *Federal Operator Antennas.* Amateur radio antennas and their supporting towers, poles, and masts that are owned and/or operated by a federally-licensed amateur radio operator or is used exclusively for receive-only antennas.
 - D. *Mobile Services.* Mobile services providing public information coverage of news events of a temporary or emergency nature.
 - E. *Miscellaneous.* Any other devices not mentioned above that are exempt according to Section 704 of the Telecommunications Act of 1996.
- (3) *Location Requirements.*
- A. *Lot Area.* The minimum lot area shall be determined by the design of the guyed tower and shall be of sufficient area to accommodate all guyed wires and anchors, and a fall zone of 1.5 times the height of the tower or antenna, or, the minimum lot area requirement for the applicable zoning district, whichever is greater.
 - B. *Setbacks.* All towers, antennas and transmitters shall be setback from public road right-of-ways, navigable water, bluffs, and side and rear lot lines a distance equal to 1.5 times the height of the tower, or the setback required in the applicable zoning district, whichever setback is greater.
 - C. *Environmental Protection.* No tower, antenna or transmitter, unless located on an existing tower or antenna, shall be located in any shoreland, floodplain, or wetland.
 - D. *Special District Requirements.* In the Heartland, Small Estate Residential, Mixed Use Commercial, and Commercial Center districts, all telecommunication towers and antennas shall be affixed to an existing tower, structure, or utility pole, and, the antenna shall not extend more than 20 feet above the highest point of an existing tower, structure, or pole.
 - E. *Variances.* A variance shall not be given from sub. D., unless the applicant can demonstrate no existing tower or structure can accommodate the proposed antenna. Supporting evidence may consist of any of the following conditions:
 - 1. No existing facility towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

2. Existing facility towers or structures are not of sufficient height to meet the applicant's engineering requirements.
3. Existing facility towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed system would cause electromagnetic interference with the system on the existing tower or structure, or the system on the existing facility tower or structure would cause interference with the applicant's proposed system.
5. The fees, cost, or contractual provisions required by the owner to share an existing facility tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are considered unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing facility towers or structures unsuitable.

F. *Multiple Users.* If a variance is given in sub. E., the authorized tower and antenna shall be designed structurally and electrically to accommodate the applicant's antennas and comparable antennas for at least 2 additional users if the tower is 130 feet or more in height. Towers must also be designed to allow for future rearrangement of antennas on the tower and accept antennas mounted at different heights.

G. *Third Party Review.* The County reserves the right to hire a third party to review the application to determine whether tower co-location is feasible or if the evidence in subs. D, E and F above are accurate. Said review shall be paid by the applicant.

H. *Safety.* No tower or antenna shall be located in a Fresnel zone, unless located in compliance with Ch. 14 (Sec. 14-6) of the *County Code of Ordinances, Emergency Services, Public Safety Radio Systems*. Meteorological towers less than 200 feet above the ground level shall abide by the FAA Rule dated June 24, 2011 or successor Rule.

I. *Aesthetics.* Satellite dishes and parabolic antennas shall be situated as close to the ground as possible to reduce the visual impact without compromising their function.

(4) *General Requirements.*

A. *Security.* The base of towers or antennas at the point of entry into the earth shall be enclosed within security fencing. Any security lighting shall utilize fixtures whose hood, lens or combination thereof allows no direct beams of light to spill onto adjoining properties or to be cast skyward.

B. *Access.* The service drive providing access to the facility shall be the minimum necessary to provide maneuverability for service or emergency vehicles.

C. *Lighting.* Standards for lighting structures as set forth in the *U.S. Department of Transportation, Federal Aviation Administration Advisory Circular AC, 70-7460-1k, Obstruction Marking and Lighting*, shall be followed, except that strobe lights shall not be used during hours of darkness. Light, if required, shall be shielded from the ground.

- D. *Compliance.* All towers and antennas shall comply with Federal Communication Commission (FCC), Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), and the Federal Aviation Administration (FAA) rules and regulations.
 - E. *Design.* All towers and antennas shall comply with the manufacturer's specifications as it relates to design and installation.
 - F. *Codes.* All towers and antennas shall comply with all applicable State and local building and electrical codes.
 - G. *Licenses.* All required Federal, State, or local licenses shall be provided prior to the issuance of the zoning permit.
 - H. *Interference.* Towers and antennas shall not interfere with or obstruct existing or proposed public safety or fire protection telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the County.
 - I. *Signage.* No sign, other than warning, permit number, or equipment information, shall be fixed to any tower, antenna or transmitter.
 - J. *Color.* All towers and antennas shall use building materials, colors, textures, screening, and landscaping that blends the facilities with the surrounding natural features to the greatest extent possible. The tower shall be painted light blue or other color that is demonstrated to minimize visibility.
 - K. *Material.* Galvanized towers may be permitted. All metal towers shall be constructed or treated with corrosion resistant material.
 - L. *Visibility.* Towers and antennas are encouraged to be camouflaged. If adjacent to a property with a historic building, a public park, or an area identified by the State of Wisconsin as a Land Legacy Place, the tower and antenna shall be camouflaged. All MET towers which are less than 200 feet above ground level shall be made visible in accordance with the recommended FAA markings per 14 CFR Part 77 and Advisory Circular No. 70/7460-1, *Obstruction Marking and Lighting*.
 - M. *Structural Design.* All towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted that a guyed tower is required.
 - N. *Bond.* A bond with a corporate surety, duly licensed in the State of Wisconsin, in the amount of \$20,000 per 100 feet of height shall be provided to assure that the applicant, its representatives, its agents, and its assigns will comply with all the terms, conditions, provisions, requirements, and specifications contained in this chapter, including abandonment. Calumet County shall be named as obligee in the bond and must approve the bonding company.
- (5) *Permit Requirements.* In addition to application and permit requirements listed in Article IX, *Procedures*, the following shall be provided at time of application.
- A. *Professional Report.* A report from a registered professional engineer and/or other professionals which:

1. Describes the tower and antenna height and design, including a cross-section and elevation.
2. Certifies the tower's compliance with electrical standards and structural standards that allow it to accommodate at least 3 antennas.
3. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate.
4. Describes the lighting to be placed on the tower or antenna if required by the FCC or FAA.
5. Certifies that the tower, antenna or transmitter will not cause destructive interference with any previously established public safety communication systems.
6. Federal Communication Commission (FCC) license and registration numbers, if applicable. Also copies of a Findings of No Significant Impacts statement from the FCC or Environmental Impact Study, if applicable.
7. An alternative analysis shall be prepared by the applicant that identifies all reasonable, technically feasible alternative locations and/or facilities that could provide the proposed service. The intention of the alternatives analysis is to present alternative strategies, which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the County. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. The County may require independent verification of this analysis at the applicant's expense.
8. A tabular and map inventory of all the applicant's existing telecommunication towers that are located within Calumet County and includes all of the applicant's towers within fifteen hundred (1,500) feet of the County boundary. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers and the ability of the tower or antenna structure to accommodate additional co-location antennas.
9. Written acknowledgement by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the building permit or conditional use permit.
10. Additional Information and Analysis.
 - a.) In the Exclusive Agricultural district proof of compliance with s. 91.47(4), Wis. Stats.
 - b.) The Code Administrator or the Planning, Zoning and Farmland Preservation Committee may, at his/her or its discretion, require visual impact demonstrations, including mock-ups and/or photo montages, screening and painting plans, network maps, alternative site analysis,

lists of other nearby wireless telecommunication facilities, or facility design alternatives for the proposed facilities.

- c.) The Code Administrator or the Planning, Zoning and Farmland Preservation Committee may employ, on behalf of the County, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of such review and/or independent analysis.

- (6) *Abandonment.* The owner of a tower or antenna permitted under this chapter shall notify the Planning, Zoning and Land Information Department when the tower or antenna is no longer in operation. All obsolete, damaged, unused, or abandoned towers, antennas and accompanying accessory facilities shall be removed within 12 months of the cessation of operations unless a time extension is approved by the Planning, Zoning and Land Information Department. After the tower, antenna, and facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within 4 feet of ground level. If removal and/or restoration are not completed, the Code Administrator may order removal utilizing a performance bond, which shall be provided by the applicant as required by sub. (4)N., *Bond*.

(e) Commercial Communication Towers, Antennas and Transmitters.

- (1) *Authority.* This section is adopted pursuant to authority granted by Wis. Stats. §§59.69, 66.0404 and 66.0406.
- (2) *Purpose.* The purpose of this section is to promote the health and safety of the general public by establishing minimum standards for the siting of antennas, towers, and other structures necessary to provide mobile services in Calumet County. This section is intended to enhance the ability to efficiently and effectively provide mobile services.
- (3) *Jurisdiction and Scope.*
 - A. This ordinance applies to all mobile service facilities, and mobile service support structures, located outside the limits of any incorporated city or village, within the boundaries of Calumet County.
 - B. This section will not apply to a town if the town enacts an ordinance under Wis. Stat. §66.0404 after this ordinance is enacted; however, if a town later repeals its ordinance, this ordinance will then apply in the town.
- (4) *Pre-existing Facilities and Structures.*
 - A. Mobile service facilities and mobile service support structures that were constructed prior to the effective date of this ordinance are not subject to this ordinance, except as provided herein.
 - B. A pre-existing mobile service facility or mobile service support structure that is damaged by fire, storm, or other casualty, or that requires replacement, may be repaired, reconstructed, or replaced provided that the repaired, reconstructed, or replaced mobile service facility or mobile service support structure complies with its original Conditional Use Permit, and the repaired, reconstructed, or replaced mobile service facility or mobile

service support structure does not exceed the height of the original mobile service facility or mobile service support structure.

- C. Any improvement to a pre-existing mobile service facility or mobile service support structure that is inconsistent with the original Conditional Use Permit or that increases the height of the original mobile service facility or mobile service support structure, must comply with this ordinance.

(5) *New Facilities and Structures.*

- A. A Zoning Permit is required for the construction of any new mobile service facility or mobile service support structure.
- B. The Planning, Zoning and Land Information Department will provide an applicant with a Zoning Permit Application upon request.
- C. An applicant must submit a written application for a Zoning Permit to the Planning, Zoning and Land Information Department. The application must contain the following information:
 - 1. The name and business address of the applicant, along with the name of a contact person.
 - 2. The location of the proposed mobile service facility and mobile service support structure.
 - 3. An explanation why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service capacity, coverage, and functionality; is technically infeasible; or is economically burdensome to the mobile service provider.
 - 4. A construction plan describing the proposed mobile service support structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.
 - 5. A Site Plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- D. An application that contains all of the information required under this ordinance will be considered to be complete. If the Planning, Zoning and Land Information Department does not believe that the application is complete, it shall notify the applicant, in writing, within 10 days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- E. Within 90 days of receipt of a complete application, the Planning, Zoning and Land Information Department shall complete all of the following, or the applicant may consider the application approved, except that the applicant and the Planning, Zoning

and Land Information Department may agree, in writing, to an extension of the 90 day period:

1. Review the application to determine whether it complies with all applicable aspects of the County's building and zoning ordinances, subject to the limitations in Wis. Stat. §66.0404.
 2. Make a final decision whether to approve or disapprove the application.
 3. Notify the applicant, in writing, of its final decision.
 4. If the decision is to disapprove the application, the written notification must set forth substantial evidence that supports the decision.
- F. The Planning, Zoning and Land Information Department may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described in sec. 82-77(f)(5)(C)3.
- G. If an applicant provides the County with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, the zoning ordinance does not apply to such structure unless the County provides the applicant with substantial evidence that the engineering certification is flawed.
- H. A party who is aggrieved by the Planning, Zoning and Land Information Department's final decision may bring an action in the Circuit Court.

(6) *Class 1 Collocation.*

- A. A Zoning Permit is required for a Class 1 collocation.
- B. An applicant must submit a written application, provided by the Department, for a Zoning Permit to the Planning, Zoning and Land Information Department. The application must contain the following information:
 1. The name and business address of the applicant, along with the name of a contact person.
 2. The location of the affected facility and support structure.
 3. A construction plan describing the proposed modifications to the support structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.
 4. A Site Plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- C. An application that contains all of the information required under this ordinance will be considered to be complete. If the Planning, Zoning and Land Information Department does not believe that the application is complete, it shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The

written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- D. Within 90 days of receipt of a complete application, the Planning, Zoning and Land Information Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning, Zoning and Land Information Department may agree, in writing, to an extension of the 90 day period:
 - 1. Review the application to determine whether it complies with all applicable aspects of the County's building and zoning ordinances, subject to the limitations in Wis. Stat. §66.0404.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, the written notification must set forth substantial evidence that supports the decision.
- E. The Planning, Zoning and Land Information Department may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described in Sec. 82-77(f)(5)(C)3.
- F. If an applicant provides the County with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, the zoning ordinance does not apply to such structure unless the County provides the applicant with substantial evidence that the engineering certification is flawed.
- G. A party who is aggrieved by the Planning, Zoning and Land Information Department's final decision may bring an action in the Circuit Court.

(7) *Class 2 Collocation.*

- A. A Zoning Permit is required for a class 2 collocation. A class 2 collocation is subject to the same requirements for the issuance of a Zoning Permit as any other commercial development or land use development.
- B. The Planning, Zoning and Land Information Department will provide an applicant with a Zoning Permit Application upon request.
- C. An applicant must submit a written application for a Zoning Permit to the Planning, Zoning and Land Information Department. The application must contain the following information:
 - 1. The name and business address of the applicant, along with the name of a contact person.
 - 2. The location of the affected facility and support structure.

3. A construction plan describing the proposed modifications to the support structure and the equipment and network components, including antennas, base stations, cabling, power supplies, receivers, transmitters, and related equipment to be placed on or around the new mobile service support structure.
 4. A Site Plan depicting the tower site, including the location of any structures, setbacks, and the tower height.
- D. An application that contains all of the information required under this ordinance will be considered to be complete. If the Department does not believe that the application is complete, it shall notify the applicant in writing, within five (5) days of receiving the applications, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- E. Within 45 days of receipt of a complete application, the Planning, Zoning and Land Information Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Planning, Zoning and Land Information Department may agree, in writing, to an extension of the 45 day period:
1. Make a final decision whether to approve or disapprove the application.
 2. Notify the applicant, in writing, of its final decision.
 3. If the application is approved, issue the applicant the relevant permit.
 4. If the decision is to disapprove the application, the written notification must set forth substantial evidence that supports the decision.
- F. A party who is aggrieved by the Planning, Zoning and Land Information Department's final decision may bring an action in the Circuit Court.

(8) *Standard Regulations.*

- A. *Applicability.* The standard regulations contained in this section are applicable to all mobile service facilities and mobile service support structures.
- B. *Federal Requirements.* Each mobile service facility and structure must meet or exceed all applicable regulations and standards of the Federal Aviation Administration, Federal Communications Commission, and any other federal agency with authority over the facility and structure that are in effect at the time the facility or structure is placed in service.
- C. *Markings.* A mobile service support structure, or antenna may not be used to display any commercial advertising, but may display identifying information, such as call letters, frequencies, or Federal Communications Commission registration numbers, if required by federal or state law, regulation, rule, or order.
- D. *Interference with Public Safety Radio Systems.* All mobile service facilities and structures must meet the requirements of Sec.14-6 of the Calumet County Code.

- E. *Security measures.* Each mobile and radio broadcast service facility and structure must be protected by security measures sufficient to deter the general public from obtaining access to the facility and structure.
- F. *Abandonment and Removal.*
1. An applicant for a permit under this ordinance must submit a copy of a signed agreement between the owner of the mobile service facility and the owner of the property on which the mobile service facility is located that sets forth the arrangement for the removal of any abandoned mobile service facility. The agreement must provide for it to be binding on all future owners or successors of interest of the mobile service facility owner.
 2. The applicant or owner of the mobile service facility shall provide a bond, letter of credit or other suitable financial guarantee as determined by the department, not to exceed \$20,000.00, to ensure the removal of the mobile service facility.
 3. A mobile service facility shall be removed when the use of the facility has been discontinued or the facility has not been used for its permitted purpose for 12 consecutive months.
 4. If two or more antennas are collocated on a single tower, the tower will not be deemed abandoned so long as at least one antenna remains in use.
 5. Mere intent to continue the use of the mobile service facility shall not constitute use. The applicant/owner shall demonstrate through a lease or other similar instruments that the use will be continued without a lapse of more than 12 consecutive months to constitute actual use. If the applicant/owner cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.
 6. The Code Administrator may issue a Notice of Abandonment to the owner of a mobile service facility and the owner of the property on which an antenna or tower is located if the Code Administrator determines an antenna or tower is abandoned. The Notice will specify each antenna, mobile service support structure, and any equipment, facilities, or other structures which must be removed.
 7. The owner of an abandoned mobile service facility, or the owner of the property on which the mobile service facility is located, must remove the abandoned mobile service facility within 90 days of a Notice of Abandonment, subject to proof under paragraph (5) above that the mobile service facility is not abandoned, which must be provided to the Code Administrator within 30 days from the date of the Code Administrator's Notice of Abandonment.
 8. Removal of the abandoned mobile service facility shall include all subsurface structures (e.g. foundations, including concrete used to support the mobile service facility) a minimum of three (3) feet below grade, and restoration of the site to its pre-construction state.
 9. If the abandoned mobile service facility is not removed, the Code Administrator may facilitate the removal of the mobile service facility and salvage it at the

owner's expense. If the salvage proceeds and any financial guaranty from paragraph (2) above are insufficient to cover the cost of the removal, the cost of removal will become a lien against the property on which the mobile service facility was located.

- G. *Parking and Access.* Mobile service facilities shall comply with all parking and access requirements of this chapter. Access must be provided by an all-weather gravel or paved driveway.
- H. *Setbacks.*
1. Each mobile service facility must meet or exceed all applicable setback requirements. However, a mobile service facility shall be setback a minimum of 100% of the tower's height from all property lines or boundaries of a leased site unless the tower has been designed by a structural engineer, licensed in the State of Wisconsin, to collapse within a lesser distance. Furthermore, in no case shall the setback from all property lines or boundaries of a leased site be less than 50% of the tower height, or that required for the zoning district in which the mobile service facility is located, whichever is greater.
 2. A mobile service support structure must be setback 500 feet from a residence not on the property on which the facility is located, unless written permission is granted by the owner of the residence at the time of the application for a permit.
- I. *Permit Fees and Other Charges.*
1. The permit fee for siting and construction of each new mobile service facility or structure is \$3,000.
 2. The permit fee for each class 1 collocation is \$500.
 3. The permit fee for each class 2 collocation is \$125.
 4. An applicant is responsible for paying all fees and expenses charged by a third-party consultant retained by the Planning, Zoning and Land Information Department to review a mobile service facility application or permit, except that the Planning, Zoning and Land Information Department is responsible for the third-party consultant's travel expenses. An applicant's failure to pay a third-party consultant's fees and expenses, other than travel expenses, is grounds to deny an application or revoke a permit.
- J. *Violations and Penalties.*
1. Violations and penalties of this section shall be subject to enforcement under Article XII, *Enforcement* of this chapter.

Sec. 82-78. – 82-83. Reserved.

ARTICLE VI. NONCONFORMING USES, STRUCTURES, LOTS

Sec. 82-84. Previously Lawful Condition.

Within the districts established and mapped by this chapter, or amendments thereto, there may exist uses of lands or buildings, structures, lots, or uses which were lawful before this chapter, or amendments thereto became effective, but which do not conform to the regulations herein. As set forth in s. 59-69(10), Wis. Stats., such nonconforming conditions may be continued, subject to the requirements of this chapter.

Sec. 82-85. Nonconforming Uses.

- (1) A nonconforming use may not be enlarged, expanded or moved to any other part of the parcel on which it is located.
- (2) Where any such nonconforming use is discontinued for a period of 12 consecutive months, any future use of the building, structure, or land shall conform to the regulations of the district in which it is located.
- (3) A nonconforming use may not be moved to another parcel unless it complies with all applicable provisions of this chapter.
- (4) A nonconforming use may not be changed to another nonconforming use.
- (5) A nonconforming use may be changed to a conforming use, but a conditional use permit must be obtained if the new use is a conditional use.
- (6) A nonconforming use that has been changed to a conforming use may not be returned to the prior nonconforming use or to any other nonconforming use.

Sec. 82-86. Nonconforming Structures.

(a) *Repair, Rebuilding and Maintenance of Certain Nonconforming Structures.*

- (1) The repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure is permitted within the existing three dimensional footprint.
 - A. The three dimensional footprint of a nonconforming structure that is located over a property line or within a road right-of-way may be relocated to the nearest location on the property but must be located at least five feet from the road right-of-way or property lines.
 - B. Ordinary maintenance and non-structural repairs shall be permitted without the authorization of a regular zoning permit.

(b) *Additions.* Additions to nonconforming structures are permitted provided:

- (1) The footprint of all additions over the lifetime of the structure shall not exceed 50% of existing footprint of the first floor. If a home contains two stories, the 50% footprint addition may be extended to the second story. Attached garages do not count as part of the first floor footprint under this section.

- (2) *Basements.* Basement additions and replacement to nonconforming structures are permitted if the installation of the basement does not contain ingress/egress windows or patio doors.
 - (3) *Setback to the Road.* Additions to nonconforming structures that do not meet the required road setback and that are located out of the road right-of-way or vision clearance triangle may be permitted provided the addition or appurtenance does not encroach any closer to the road than the closest portion of the structure to the road, and, provided the municipality or entity with jurisdiction over the road signs a letter of non-objection to the construction of the addition. A 16 square foot open landing may be allowed closer to the road than the closest portion of the residential structure to the road provided there is no reasonable alternative complying location for the landing.
 - (4) *Yard Setback.* Additions to nonconforming structures that do not meet the required front, rear, or side yard may be permitted provided the addition or appurtenance does not encroach any closer to the yard than the closest nonconforming portion of the residential nonconforming structure. A variance shall be required if the addition is closer than half the distance of the normal required yard setback.
- (c) *Restoration of Certain Nonconforming Structures.* In accordance with Wis. Stat. § 59.69(10m), a nonconforming structure that is damaged or destroyed by fire, flood, ice, infestation, mold, snow, vandalism, or violent wind may be restored to the size, location, and use that it had immediately before the damage or destruction occurred. The size of the nonconforming structure may be enlarged, but only to the extent necessary for the structure to comply with applicable state and federal requirements.
- (1) *Emergency Permitting.* Any structure destroyed by a natural disaster declared by the Governor of Wisconsin, need not secure a permit for replacement or repair, provided the Code Administrator inspects the structure to document the condition of the structure and verify it was destroyed by the natural disaster. In no case shall an illegal structure be allowed to be reconstructed under this provision.
- (d) *Americans with Disabilities.* The Code Administrator shall have the authority to provide a staff waiver to allow a nonconforming structure to be added onto, or altered, in violation of chapter provisions, so as to comply with the Americans with Disabilities Act. Such addition or alteration requires the authorization of a regular zoning permit.

Sec. 82-87. Nonconforming Lots.

- (a) *Determination.* Existing lots of record, recorded with the Register of Deeds prior to the date that the town in which the parcel is located initially adopted this Chapter, and which do not contain sufficient area and/or width to meet the requirements of this Chapter, shall be considered nonconforming or substandard lots. Owners of these lots may do the following:
- (1) Convey ownership interest to another party.
 - (2) Use the nonconforming lot as a building site if:
 - A. The lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - B. The lot or parcel is developed to comply with all other requirements contained in this ordinance.

- (b) *Merging Nonconforming Lots.* Nonconforming lots may be merged together to create a building site if all other development regulations and requirements of this ordinance are satisfied.
- (c) *Side yard.* Setbacks apply to shared lot lines between adjoining nonconforming lots of record held in common ownership.
- (d) A lot legally created prior to the adoption of this chapter but after November 2, 2009 for the purpose of creating a building site for a residence utilizing density or a conditional use permit for a nonfarm residence under the Base Farm Tract System is not considered a nonconforming lot.

Sec. 82-88. – 82-93. Reserved.

ARTICLE VII. PARKING AND ACCESS REQUIREMENTS

Sec. 82-94. Purpose.

These provisions are intended to reduce traffic congestion on public streets by requiring adequate off-street parking and loading areas for each land use. These provisions provide landscaping requirements to improve the appearance of parking lots and to reduce the nuisance of glare. These provisions are also intended to promote traffic safety by ensuring proper access to roads.

Sec. 82-95. Off-Street Parking Space Requirements.

- (a) *Required Number of Off-Street Parking Spaces.* The minimum number of off-street automobile parking spaces to be provided shall be in accordance with the following schedule.

USE	OFF-STREET PARKING REQUIREMENT
Multiple Occupancy Development	See Sec. 82-76(e)
Auditorium/Theater/Community Centers/ Entertainment Facility/Vocational and Night Schools and other Places of Public Assembly	1 space per 3 seats
Colleges, Secondary and Elementary Schools	1 space per every 2 employees plus 1 space every 10 students of 16 years of age or older
Church/Funeral Home	1 space per 4 seats
Restaurant/Tavern	1 space per 100 square feet of primary floor area or 1 space per 3 seats, whichever is greater
Boardinghouses 82-72 (i)	1 space per bedroom or sleeping room
Bed and Breakfast Establishment 82-72 (h)	2 spaces plus 1 space per rental room
Hotel/Motel	1 space per guest room plus 1 space per every 3 employees
Medical/Dental Clinic or Office	5 spaces per doctor/dentist
Hospitals, Dormitories or Clubs or Lodges which provide Overnight Accommodations	1 space per every 2 beds plus 1 space per every 3 employees
Sanitariums, Institutions, Rest Homes, Nursing Homes and CBRFs	1 space per every 5 beds plus 1 space per 3 employees
Galleries/Studios	1 space per 250 square feet of primary floor area
Retail Stores and Personal Service Establishments	1 space per 250 square feet of primary floor area
Financial Institutions, Business, Government and Professional Offices	1 space per every 200 square feet of primary floor area and 1 space per every office's 2 employees
Manufacturing/Trader Contractor Establishments	2 spaces plus 1 space per employee during peak shifts

Warehouse/Commercial Storage	1 space per 1,000 square feet of primary floor area
Automobile Repair/Garages/Gasoline/Filling Stations	1 space per employee plus 1 space per 250 square feet of repair area and 3 spaces per each grease rack and spaces for restaurant and retail, per this section, if applicable
Public Boat Launching Ramp	15 spaces per launching lane (each space 10 feet wide by 40 feet long)
Marinas	0.6 of 1 space per boat slip
Commercial Riding Stables 82-75 (c)	1 space per 3 horses
Model Homes	4 spaces per model home
Bowling Alleys	5 spaces per alley
Private Lodges and Clubs	1 space per 5 members

(1) *More Restrictive Apply.* If the parking requirements for particular uses described in Article V, *Particular Use Requirements* or, are different from those shown in this section, the most restrictive requirements shall apply.

(2) *Uses Not Listed.* In the case of uses not specifically listed in par. (a), *Required Number of Off-Street Parking Spaces*, the minimum number of parking spaces shall be determined by the Code Administrator, based upon requirements for similar uses.

(b) *Application to Existing Uses.* Uses existing on the effective date of this chapter, which do not have the required amount of parking spaces, shall not further reduce said space; and no expansion of the use shall be permitted unless parking spaces equal to the parking requirement for the expansion are provided.

(c) *Application to Change of Use.* Whenever an existing use of a lot is hereafter proposed to be changed to a use having greater parking requirements, the applicant shall provide the additional parking spaces required by this section.

(d) *Location.* All required off-street parking shall be provided on the same lot as the use it serves or on an adjoining lot.

Sec. 82-96. General Parking Area and Landscaping Requirements.

(a) *Design Requirements.* For uses requiring the approval of a conditional use permit, the Planning, Zoning, and Farmland Preservation Committee may modify the design requirements due to unnecessary impervious surfaces, destruction of natural resources, or excessive size and design for the particular location and use.

(1) *Access.* All parking areas shall be provided with an entrance and an exit or shall be provided with a turn-around at the end opposite of the entrance

(2) *Location and Setback.*

A. Off-street parking areas shall be located at least 10 feet from public road right-of-ways:

B. Off-street parking areas shall be located at least 5 feet from all other lot lines in all zoning districts.

C. All off-street parking shall be located out of a vision clearance triangle.

- (3) *Screening.* A parking, loading, standing, or unloading area that abuts a neighboring property in a residential district must be screened by a fence, hedge, or wall. The minimum height of the barrier shall be 4 feet above the surface of the parking area. If planted materials are used, standards identified in Section 82-37 Landscape Buffer shall be applied.
- (4) *Surfacing.* A driveway; parking space; and loading, standing, and unloading area must have an all-weather surface, such as asphalt, gravel, or concrete, and must be graded and drained.
- (5) *Lighting.* Any light used to illuminate a driveway; parking; or loading, standing, and unloading area must be directed away from any adjacent public street and away from any residence on an adjacent parcel.
- (6) *Size.* Off-street parking spaces shall be at least 9 feet in width and at least 18 feet in length. Parking spaces designed to accommodate parallel parking shall be at least 22 feet in length.
- (7) *Handicap Accessible Parking.* All off-street parking areas shall provide parking spaces for use by motor vehicles which transport physically disabled persons, in accordance with the Americans with Disabilities Act. All handicap accessible parking spaces must be clearly identified.

Sec. 82-97. Driveway Access Requirements for Parking Areas.

- (a) Every parking area shall have access to a public or private road. It shall be the responsibility of the land owner to secure said access.
- (b) All access driveways shall be at least 10 feet from the property line, unless driveways are shared by adjoining property owners. For driveways with culverts, the setback shall be measured from the culvert edge.
- (c) The access opening for vehicular ingress and egress may not be less than 20 feet wide at the right-of-way line.
- (d) A driveway must have an all-weather driving surface that is not less than 14 feet wide and must have a typical road grade that is sloped to provide drainage.
- (e) The turn radius for any curve in a driveway must be at least 30 feet for the inside radius and at least 50 feet for the outside radius.
- (f) A driveway that exceeds 500 feet in length must have a turnout at least every 500 feet that will allow vehicles to pass. The turnout area must be at least 60 feet in length, 30 feet in width.

Sec. 82-98. Prohibition on Commercial Vehicles in Residential Districts

- (a) The parking and storage of a commercial vehicle exceeding 7 feet in height or 22 feet in length is prohibited in all residential districts (SF-20, SF-10, HD, MC). For purposes of this section the phrase "commercial vehicle" shall include motorized vehicles and any type of trailer designed or used to store or haul equipment and materials.
- (b) Commercial vehicles less than 7 feet tall or 22 feet long may be parked in residential districts in an enclosed garage, accessory building or rear yard if any sign graphic, either attached or painted on the

vehicle, exceeds 10 square feet in area. Only one such motorized commercial vehicle may be parked on or in front of any residential lot and must be used by a resident of such lot.

Sec. 82-99. – Sec. 82-103. Reserved.

ARTICLE VIII. SIGNS

Sec. 82-104. Purpose and Intent

Signs can obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulations. Therefore, the purpose of these requirements is to ensure consistent administration of regulations that preserve the outstanding visual resources of Calumet County; protect the public health, safety and general welfare through reasonable requirements for the size, number, placement, illumination, and movement of signs; and provide for adequate business identification, advertising, and communication for promoting a healthy economy. This section allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of signs.

- (a) The structure of this Article is intended to regulate the location of commercial and non-commercial messages displayed on signs by location as identified in Sec. 82.110(a) rather than content. Non-Commercial speech is permitted, in a manner consistent with the First Amendment guarantee of free speech, uniformly across all districts under Sec. 82.106 through Sec. 82.108 of this Ordinance.

Sec. 82-105. Administration

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, repaired or structurally altered without a zoning permit, unless exempted within this section, without being in conformity with the provisions of this Ordinance. Any sign located, erected, moved, reconstructed, extended, enlarged, repaired or structurally altered without a valid zoning permit shall be removed or subject to an after-the-fact permit fee as established by Calumet County. All zoning permits for signs shall expire 12 months from the issue date of the permit.

- (a) Any sign proposed that is not described or defined in this section may be considered for approval by the Calumet County Planning, Zoning and Farmland Preservation Committee. Any such sign that is approved shall be subject to all applicable provisions within this section and ordinance, such as size, placement requirements, and require a zoning permit

Sec. 82-106. Prohibited Signs

The following shall be prohibited in all zoning districts:

- (a) *Prohibitions.* No undulating, swinging, rotating or unauthorized moving sign shall be permitted.
- (b) *Illumination.* No sign or sign illumination shall obstruct clear visibility of traffic along any public road or intersection of roads or driveways nor be illuminated in such a way so as to cause glare or impaired driver visibility upon public roads.
- (c) *Traffic Sign Resemblance.* Signs shall not resemble, imitate, or approximate the shape, size, form, or color of traffic signs, signals or devices.
- (d) *Signs on Vehicles or Trailers.* Signs placed on a vehicle or trailer placed in a location not normally expected for such vehicles or trailers, and the location apparently has the primary purpose of attracting

attention or providing advertising.

- (e) *Natural Materials.* No sign shall be painted, mounted, or affixed to a fence, utility pole or on rocks, trees or other natural features, except that nameplates and/or addresses for residences and “No Hunting”, “No Trespassing”, “No Dumping” and signs of a similar nature may be affixed to trees.
- (f) *Right-of-way.* No sign shall be located in a road right-of-way.
- (g) *Obscenity.* No sign shall contain obscene or derogatory language, symbols, or pictures.

Sec. 82-107. General Sign Regulations

The regulations contained in this section shall apply to signs in all zoning districts. The regulations set forth in this section do not supersede the prohibitions as set forth in Sec. 82.106

(a) General Sign Requirements:

- (1) Signs shall not interfere with the visibility for ingress or egress of a driveway.
 - (2) Externally illuminated signs shall:
 - 1. Not flash, oscillate, or rotate, except when associated with an electronic message center permitted under this ordinance.
 - 2. Be shaded, shielded or directed away from surrounding properties and traffic.
 - (3) All signs, including support structures, shall be constructed in accordance with local and state building and electrical codes.
 - (4) The immediate premises around a sign shall be kept free from trash and debris. However, no person may damage, trim, destroy or remove any trees, shrubs or other vegetation located within the right-of-way of any public street or road for the purpose of increasing or enhancing the visibility of any sign unless approved in writing from the highway authority.
 - (5) No sign shall be placed in the Visual Clearance Triangle as described in this Chapter Section 82.31 (c).
 - (6) Height measurement shall be the distance from the average grade of the ground under the sign face, to the top of the sign face.
 - (7) Setbacks for all signs shall be measured from the closest point of the sign face.
 - (8) Distance measurements shall be measured along the pertinent right-of-way lines when determining separation between signs or distance from intersections.
 - (9) Any change in copy on an existing legal sign shall be allowed without need of a zoning permit. A permit is required if said change involves a change in size or shape, or a change in position, location, construction or supporting structure of a sign.
- (b) Outdoor murals or other outdoor artwork, which do not advertise a product, service, logo or other insignia, considered advertising as determined by the Code Administrator are exempt from this chapter.

- (c) Seasonal decorations that do not convey a commercial message are not considered signage and are exempt from this chapter.

Sec. 82-108. Signs Allowed Without a Permit

- (a) **Public Safety and Identification Signs.** A sign intended to convey a message which ensures the general public health and safety of Calumet County residents are allowed without a permit in any zoning district. They are regulatory or wayfinding in nature and include the following:
 - (1) Official traffic and parking signs, informational, legal or directional notices, public and municipal identification signs erected by Federal, State, County or local units of government.
 - (2) Guidance signs authorized by the Wisconsin Department of Transportation under Trans. 200.03, Wis. Admin. Code.
 - (3) Memorial signs and tablets displayed on public property or in cemeteries.
 - (4) Residential owner or dwelling unit signs stating the names of the property owner and/or occupant of the residence on the property where the sign is located, provided no such sign exceeds six (6) square feet or be placed within 5 feet from any public road right-of-way or property line.
 - (5) No Public Safety or Identification sign shall be permitted in the road right-of-way unless expressly permitted by agency or unit of government responsible for the maintenance of that right-of-way.
- (b) **Temporary Signs.** A sign intended to display a non-commercial message of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs. Examples of temporary signs include political signs, special event signs, event directional signs, construction signs, crop identification and real estate signs. Temporary signs must comply with the following:
 - (1) Shall not be placed within 5 feet of any public road right-of-way or property line.
 - (2) Shall be placed for a period to not exceed 120 consecutive days in a 365-day period.
 - (3) May have up to 16 square feet of display area for a single-sided sign and 32 square feet for multi-sided sign.
 - (4) No more than two temporary signs shall be allowed per tax parcel or lot.
- (c) **Farm Signs.** Signs solely dedicated to the identification of a farm or sale of agricultural products produced on premise.
 - (1) **Farm Identification Signs.** Signs giving the name of a farm, company or business of the farm, or farm directory signs on the owner's property where the farm, company or business is located provided:
 - A. No such sign exceeds 32 square feet in display area.

- B. One such sign is allowed per premises.
 - C. No such sign shall be placed within 5 feet of any public road right-of-way or property line.
- (2) **Farm Sale Signs.** Signs advertising the sale of agricultural products produced on the premise the sign is located, provided there is no more than one sign per direction of travel.
- 1. No such sign exceeds 32 square feet in display area.
 - 2. Farm Sale Signs shall be located within ½ mile of the premise selling the advertised produce and shall be erected no sooner than 30 days before the advertised produce is available and removed within 30 days after the advertised produce is no longer available.
 - 3. No such sign shall be placed within 5 feet of any public road right-of-way or property line.

Sec. 82-109. Signs Allowed With a Permit

The following signs are either authorized by a zoning permit or as a conditional use as identified in Sec. 82.110(a), *Signs Allowed by Zoning District*.

- (a) **On-premise Ground Signs.** A sign erected, maintained or used in the outdoor environment for the purpose of the display of a commercial message that is appurtenant to the use of, products or services sold on, or the sale or lease of, the property on which it is displayed. On-premise ground signs must comply with the following:
- (1) One sign shall be permitted per lot.
 - (2) Shall not exceed 35 feet in height above the existing ground level where placed.
 - (3) Shall not exceed 60 square feet of total display area for a single-sided sign or 120 square feet for multi-sided signs.
 - (4) Shall not be placed within 5 feet of any public road right-of-way or property line.
 - (5) Shall not be allowed until a lawful use has been established on the zoning lot where the sign is to be erected.
- (b) **Off-premise Ground Signs.** A sign erected, maintained or used in the outdoor environment for the purpose of the display of a commercial message appurtenant to the use of products or services sold off premise. Off-premise ground signs must comply with the following:
- (1) Be of directional in nature and content.
 - (2) Be located within 10 miles of the advertised business.
 - (3) Shall not exceed 35 feet in height above the existing ground level where placed.
 - (4) Contain up to 32 square feet of total display area for a single-sided sign or 64 square feet for multi-sided signs.

- (5) Shall not be placed within 5 feet of any public road right-of-way or property line.
 - (6) Be placed within 500 feet from any legally permitted residence without express written permission from the owner of said residence at the time the sign is erected.
 - (7) One sign shall be permitted per lot.
 - (8) Exemption. Temporary directional off-premise business signs up to 32 square feet in sign area are permitted during a road reconstruction project that directly affects access to a business. These signs must be removed within 5 days of completion of the road project and do not require a permit.
- (c) **Wall Sign** A sign that is in any manner affixed to any exterior wall of a building or structure that projects not more than eighteen (18) inches from the building or structure wall that displays a commercial message that is appurtenant to the use of, products or services sold on, or the sale or lease of, the property on which it is displayed. Wall signs must comply with the following:
- (1) *Size.* Unless further restricted in size elsewhere in this chapter, the sign face of a wall sign shall not exceed 20% of the area of the side of the building to which it is attached. If more than 1 sign is present, the combined sign face area shall not exceed 20% of the area of the side of the building to which they are attached.
- (d) **Projecting Signs.** A sign other than a Wall Sign that is attached to or projects from a building face or wall or from a structure whose primary purpose is other than the support of a sign. Projecting signs have the purpose of displaying a commercial message that is appurtenant to the use of, products or services sold on, or the sale or lease of, the property on which it is displayed. Projecting signs include awnings and must comply with the following:
- (1) *Size.* Unless further restricted in size elsewhere in this chapter, the sign face area of a projecting sign shall not exceed 32 square feet.
 - (2) *Wall Extension.* The sign shall not extend more than 5 feet from the wall to which it is attached.
 - (3) *Clearance.* The bottom of such sign shall be at least 8 feet above the grade directly below the sign.
 - (4) *Roof Extension.* The top of such sign shall not extend above the building's roof.
- (e) **Billboards.** A permanent off-premise outdoor advertising sign erected, maintained or used in the outdoor environment for the purpose of providing copy area for a commercial message. Billboards must comply with the following requirements:
- (1) CH. Trans 201 Wis. Adm. Code, or
 - (2) Wis. Stats. 86.191 and Ch. 916 Wis. Stats.
 - (3) Shall not exceed 300 square feet of total display area for a single-sided sign or 600 square feet for multi-sided signs.
 - (4) Signs and billboards shall meet all yard requirements for the district in which they are located.

- (5) Be separated a minimum of 1000 feet from all other billboards.
- (6) Shall not exceed 35 feet in height above the existing ground level where placed.
- (f) **Electronic Message Centers.** An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source. Electronic message centers must comply with the following:
 - (1) Electronic Message Centers may only be allowed as on-premise signs unless authorized in Sec. 82-109 (f)(3).
 - (2) Standards for Electronic Message Centers.
 - A. The total sign face, including the Electronic Message Center shall not exceed 60 square feet.
 - B. No message may be displayed for less than 4 seconds.
 - C. No message may be repeated at intervals of less than 8 seconds.
 - D. No segmented message may last longer than 10 seconds.
 - E. No traveling message may travel at a rate slower than 16 light columns per second or faster than 32 columns per second.
 - F. Any transition duration of a message shall take no more than one second.
 - G. For electronic message center signs, the lighting source is limited to one color of illumination per message.
 - H. The illumination brightness shall not exceed 0.3 foot candles over ambient lighting conditions when measured at distances based on the sign size as recommended by the International Sign Association or other recognized authority at the choice of the County.
 - (3) An Electronic Message Center may be authorized as Public Safety and Identification Sign when the principal message being conveyed is based upon governmental speech which conveys a public service message to the residents of Calumet County.

Sec. 82-110. Signs Allowed by Zoning Districts.

- (a) *Signs Allowed by Zoning District.* The table below identifies the types of signs allowed within specific zoning districts, provided all applicable provisions of this Section are met.

	Agricultural Districts							Residential Districts			Other Districts			
	W	NA	EA / EAP	GA	HL	SE	AR	SF10	SF20	HD	MC	CC	LI	I
Public Safety & Identification Signs	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Temporary Signs	A	A	A	A	A	A	A	A	A	A	A	A	A	A
On-Premise Ground Signs		P	P	P	P	P	P				P	P	P	P
Farm Identification Signs		A	A	A	A	A	A							
Off-Premise Ground Signs											P	P	P	P
Electronic Message Center			C	C							P	P	P	P
Wall Signs		P	P	P	P	P	P				P	P	P	P
Projecting Signs		P	P	P	P	P	P				P	P	P	P
Window Signs		P	P	P	P	P	P	P	P	P	P	P	P	P
Billboard												C	C	C
A – Allowed without a permit							C – Allowed with a conditional use permit							
P – Allowed with a permit							Blank – Not Allowed							

Sec. 82-111. Flags

- (a) Flags displaying a non-commercial message on residential or nonresidential parcels are allowed and may be externally illuminated but may not touch the ground. A zoning permit is not required for a flag.
- (b) Flags containing a commercial message or flags with the sole purpose of attracting attention to a business are allowed without a permit under the following conditions:
 - (1) Shall not exceed 35 feet in height above the existing ground level where placed.
 - (2) The total of all flags shall not exceed 100 square feet in total flag area.
 - (3) Shall not be placed within 5 feet of any public road right-of-way or property line.
 - (4) Shall not be allowed until a lawful use has been established on the zoning lot where the flag is to be erected.

Sec. 82-112. Nonconforming Signs

- (a) *Modifications Prohibited.* A nonconforming sign may continue, but structural alterations or structural repairs are prohibited, unless the sign is brought into conformity with the provisions of this chapter. No such sign face shall be enlarged or reduced in size unless the sign is brought into conformity with this chapter.

Sec. 82-113. Dilapidated, Unmaintained and Abandoned Signs

- (a) *Dilapidated and Unmaintained Signs.* Signs allowed by this Ordinance shall be maintained in a safe, presentable and structural sound condition at all times. Signs determined by the Code Administrator to be dilapidated, unmaintained and/or unsafe shall be restored to a safe and structurally sound condition within 30 days upon written order by the Code Administrator.

- (b) *Removal.* Abandoned signs shall be removed by the owner or lessee of the property upon which the sign is located, unless the sign message is changed in compliance with this chapter. Such removal or change of message shall be completed within 1 year of the date upon which the sign becomes an abandoned sign.

Sec. 82-114 – 82-120. Reserved.

ARTICLE IX. NATURAL FEATURES PROTECTION REQUIREMENTS

Sec. 82-121. Purpose.

These requirements are intended to preserve interesting geological features, protect against soil erosion and groundwater contamination, preserve the natural beauty of Calumet County, and protect wild flora and fauna. It is further the purpose of this section to protect areas deemed important as Land Legacy Places in the State of Wisconsin *Land Legacy Report*.

Sec. 82-122. Applicability.

These requirements shall be in effect in all zoning districts. They shall be applied independently of other applicable requirements of this chapter. Wherever other requirements of this chapter conflict with requirements of this chapter, the most stringent requirement shall govern.

Sec. 82-123. Escarpments.

- (a) *Purpose.* The purpose of this section is to promote safe conditions by preventing placement of roads on highly inclined surfaces, preserve escarpments as landmark features and cultural depositories that contribute to the scenic diversity and attractiveness and heritage of the County, and to limit impervious surfaces so as to minimize runoff contamination on karst topography.
- (b) *Determination.* The location of escarpments subject to the requirements of this section shall be determined by reference to a map entitled *Calumet County Escarpment Protection Areas* on file in the office of the Calumet County Planning, Zoning and Land Information Department.
- (c) *Requirements.*
- (1) *Roads.* No roads or driveways shall be placed on slopes of 30-39% unless the roads or driveways are placed parallel to the escarpment face. No roads or driveways shall be placed on slopes of 40% or greater.
 - (2) *Tree Clearing.* The clearing of trees located within the Escarpment Protection Areas shall be permitted for:
 - A. Building footprints, Driveways, and Sites for wastewater disposal systems.
 - B. The area on a lot extending not more than 25 feet from the exterior walls of a permitted principal or accessory building.
 - (3) *Selective Clearing/25-100.* In the area on a lot lying between 25 feet and 100 feet from the exterior walls of principal buildings, selective clearing is permitted provided that:
 - A. No more than 30% of this area on the lot shall be cleared.

- B. The clearing of the 30% described above shall not result in strips of cleared openings of more than 30 feet in any 100 foot wide strip nor create a cleared opening strip greater than 30 feet wide.
 - C. In the remaining 70% of this area, cutting and pruning shall leave sufficient cover to screen vehicles, dwellings, and other structures.
- (4) *Selective Clearing >100*. In the area on a lot lying more than 100 feet from the exterior walls of principal buildings, and for lots which contain no principal buildings, selective clearing shall be permitted provided that within Escarpment Protection Areas there shall be no cleared area greater than 5,000 square feet, and provided that the shade of the remaining trees over 15 feet in height covers at least 70% of the wooded land surface on the lot.
 - (5) *Setbacks*. All new structures, which require excavation, shall be setback 125 feet from both the base and the ridgeline of the slope. A variance from the setback shall not be given unless a geotechnical study has been submitted indicating the variance to allow a reduced setback will not result in undue erosion, earthen material falling on the structure, or result in the structure being situated on an unstable slope within 77 years of the construction of said structure.
 - (6) *Archaeological Significance*. Unmarked graves, effigy and burial mounds shall not be intentionally disturbed, and, all runoff shall be diverted away from any known grave, effigy and burial mound.

Sec. 82-124. Bluffs.

- (a) *Purpose*. The purposes of these regulations are to promote safe conditions by preventing the removal of stabilizing vegetation, placement of structures on slopes, which may be subject to erosion, or undermining, and, the placement of roads on highly inclined surfaces with the potential for erosion or undermining.
- (b) *Determination*. Bluffs subject to the requirements of this section shall include all lands with a slope of 20% or more or those lands where the construction grade is 50 feet or higher above the elevation of the water surface of the nearest navigable lake or pond.
- (c) *Requirements*. The following requirements apply to all lots determined to have a bluff:
 - (1) *Roads*. No roads or driveways shall be placed on slopes of 15% or greater unless the roads or driveways are placed parallel to the bluff slope. No roads or driveways shall be placed on slopes of 20% or greater.
 - (2) *Tree Clearing*. The clearing of trees located within 75 feet of the ridgeline of a bluff shall be prohibited except that:
 - A. No more than 30% of this area on the lot shall be cleared.
 - B. The clearing of the 30% described above shall not result in strips of cleared openings of more than 30 feet in any 100 foot wide strip nor create a cleared opening strip greater than 30 feet wide.
 - C. In the remaining 70% of this area, cutting and pruning shall leave sufficient vegetation to stabilize the soil through root support and to screen vehicles, dwellings, and other structures.

- (3) *Setbacks.* All new structures, which require excavation, shall be setback 125 feet from both the base and the ridgeline of the slope. A variance from the setback shall not be given unless a geotechnical study has been submitted indicating the variance to allow a reduced setback will not result in undue erosion, earthen material falling on the structure, or result in the structure being situated on an unstable slope within 77 years of the construction of said structure.

Sec. 82-125. Sinkholes.

- (a) *Purpose.* Sinkholes provide easy opportunity for contaminated surface water to enter Calumet County's groundwater system. Since Calumet County's people rely on groundwater for drinking water, human health and public welfare will be benefited by minimizing opportunity for entry of contaminated surface water into sinkholes. The purpose of these regulations is to reduce entry of contaminant-bearing surface water into sinkholes.
- (b) *Applicability.* Each of the following shall be subject to requirements of sub. (d), *Setbacks*:
 - (1) Sinkholes where the sinkhole opening is 1 square foot or greater in size.
 - (2) Sinkholes where the area bounded by the associated sinkhole depression is 100 square feet or greater in size.
 - (3) Sinkhole channels or the sinkhole channel cross-sectional area is 3 square feet or greater in size.
- (c) *Determination.* The location of sinkholes on a lot shall be determined by the lot owner, professional engineer, geologist or similar professional or by a Code Administrator at time of lot inspection while processing the zoning permit application.
- (d) *Setbacks.* The following items shall not be placed within 75 feet of sinkhole openings, sinkhole depressions, or sinkhole channels:
 - (1) Buildings.
 - (2) Surface water discharge pipes or channels that drain into a sinkhole opening, sinkhole depression, or sinkhole channel.
 - (3) Petroleum products storage facility.
 - (4) Wastewater treatment and disposal systems.
 - (5) Sanitary landfills, salvage yards, and parking lots.
 - (6) Livestock manure storage facilities and livestock barnyards and feedlots.
 - (7) Fertilizer distribution plants.
 - (8) Animal shelters and Kennels.
- (e) *Alternative Protection Plan.* A landowner may devise and submit an alternative protection plan for the prevention of groundwater contamination through sinkholes. Such plan must be approved by the Calumet County Planning, Zoning and Land Information Department and shall specify the measures to be undertaken.

Sec. 82-126. – 82-131. Reserved.

ARTICLE X. PROCEDURES

Sec. 82-132. Regular Zoning Permits.

- (a) *Applicability.* Regular zoning permits, certifying that any such use, structure, or site complies with the provision of this chapter, shall be required in the following instances unless specifically exempted from this chapter:
- (1) Construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any building, structure, or part thereof, except structures which are less than 6 inches in height above grade elevation and meet all setback and impervious surface requirements of this chapter.
 - (2) Signs under Article VIII.
 - (3) Establishment of any accessory or principal use, except uses permitted as conditional uses.
 - (4) Filling or grading of land if required by Sec. 82-38, *Filling and Grading*.
- (b) *Application.*
- (1) *Application Requirements.* An application for a regular zoning permit shall be submitted to the Code Administrator on forms furnished by the Planning, Zoning and Land Information Department and shall include the following information:
 - A. Name and address of the property owner and signature of property owner or agent.
 - B. Location ID number, deed, legal description or other identifier of the subject property.
 - D. Statement concerning the proposed structure or use of the site.
 - E. An accurate site plan, drawn at a scale which produces a clearly legible drawing, showing the following:
 1. Boundaries, dimensions, and areas of the subject site.
 2. The spatial relationship of the subject site to abutting public roads and right-of-ways, private roads, access points, parking and loading areas, easements, and navigable waters.
 3. The location and dimensions of any existing or proposed structures or additions and their relationship to abutting public roads and right-of-ways, private roads, property lines, proposed and existing wells (whether in use or abandoned) and sanitary waste disposal systems, ordinary high watermark of navigable waters, and any known sinkholes or depressions on the land.
 - F. Building plans including all floor plans and at least 2 elevation views. The plan shall include any proposed decks or other structures necessary to exit doors or fire escapes, and, any other appurtenances, structures or buildings to be located on the property during construction for which a permit is required.

- G. Additional information as may be required on the application or by the Code Administrator in order to determine the full compliance with the requirements of this chapter.
 - H. Satisfactory evidence that a safe and adequate supply of water and approved sewage disposal facilities will be provided, in accordance with the requirements of the *Calumet County Sanitary Ordinance*, or its successor code.
- (2) *Fee*. All applications shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
 - (3) *Complete Application*. No application shall be accepted by the Code Administrator until deemed complete by the Code Administrator.
- (c) *Permit Issuance or Denial*. Upon the Code Administrator's determination that the proposed use or structure complies with the provisions of this chapter, a regular zoning permit shall be issued. An application for a use or structure not in conformity with the provisions of this chapter shall be denied a regular zoning permit and the reasons for denial shall be stated. In the event the permit is denied, the application fee will not be refunded.
 - (d) *Expiration*.
 - (1) *Term and Renewal*. A regular zoning permit shall expire 12 months from the date of issuance if no action has commenced to establish the use. If construction has commenced prior to the expiration of a regular zoning permit, but is not completed prior to such expiration, a 12 month renewal regular zoning permit shall be issued by the Code Administrator upon submittal of a renewal application, required application items and fee.
 - (2) *Termination*. If a use or structure does not comply with the issued regular zoning permit or this chapter, the permit shall be terminated by the Code Administrator. If a use permitted by a regular zoning permit ceases for a period of more than 12 months, the regular zoning permit shall terminate, and all future activity shall require a new regular zoning permit.

Sec. 82-133. Conditional Use Permits.

- (a) *Applicability*. A conditional use permit shall be required for the establishment of each use permitted as a conditional use and for the expansion or intensification of a conditional use. Expansion of a conditional use which would not increase the scale, or intensity of that use shall only require a regular zoning permit.
- (b) *Application*.
 - (1) An application for a conditional use permit shall be submitted to the Code Administrator upon forms furnished by the Planning, Zoning and Land Information Department. The application shall contain the following information:
 - A. All information and items listed under Sec. 82-132(b) (1), *Application Requirements*.
 - B. A written description as to whether or not the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to public health, public safety, or the character of the surrounding area.

- C. All conditional use permit applications shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
 - D. No application shall be accepted by the Code Administrator until deemed complete by the Code Administrator and until all fees established have been paid in full.
- (c) *Public Hearing.* A public hearing shall be held by the Planning, Zoning and Farmland Preservation Committee after a public notice has been given as provided in Sec. 82-138(a), *Notice for Public Hearings*.
- (d) *Determination.* Following review, investigation, and public hearing, the Planning, Zoning and Farmland Preservation Committee shall render a decision in writing.
- (1) If the application is approved, such decision shall include an accurate and complete description of the use as permitted, including all the conditions attached thereto.
 - (2) If the application is denied, the reasons for denial shall be stated, the application fee will not be refunded.
- (e) *Basis of Approval.*
- (1) *Review.* The Planning, Zoning and Farmland Preservation Committee shall review each conditional use permit application for compliance with all requirements applicable to that specific use and to all other relevant provisions of this chapter. In approving conditional uses, the Planning, Zoning and Farmland Preservation Committee also shall determine that the proposed use at the proposed location will not be contrary to the public interest and will not be detrimental or injurious to the public health, public safety, or character of the surrounding area using the following criteria.
 - A. The adverse effect on property values in the area.
 - B. Whether the proposed use is similar to other uses in the area.
 - C. Whether the proposed project is consistent with the Calumet County Comprehensive Plan or any officially adopted County, Town, Regional or State plan.
 - D. The availability of an approved sanitary waste disposal system and potable water supply.
 - F. Whether the proposed use creates noise, odor, or dust.
 - G. Provision of safe vehicular and pedestrian access.
 - H. Whether the proposed project adversely impacts neighborhood traffic flow and congestion.
 - I. Adequacy of emergency services and their ability to service the site.
 - J. Provision for proper surface water drainage.
 - K. Whether proposed buildings contribute to visual harmony with existing buildings in the neighborhood, particularly as related to scale and design.

- L. Whether the proposed project creates excessive exterior lighting glare or spillover on to neighboring properties.
 - M. Whether the proposed project leads to a major change in the natural character of the area through the removal of natural vegetation or altering of the topography.
- (2) *Grounds for Denial.* The applicant's failure to meet, or agree to meet, all the applicable conditions listed above, or any other conditions imposed by the Planning, Zoning and Farmland Preservation Committee, both of which must be supported by substantial evidence, shall be deemed grounds to deny the conditional use permit.
- (f) *Conditions and Restrictions.* The Planning, Zoning and Farmland Preservation Committee may impose such restrictions and conditions that it determines are related to the purpose of this ordinance and based upon substantial evidence. These conditions shall be reasonable and, to the extent practicable, measurable to prevent or minimize adverse effects from the proposed use or development on other properties in the neighborhood and on the general health, safety, and welfare of the County.
- (g) *Expiration.* A conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed. The Planning, Zoning and Farmland Preservation Committee may impose a condition relating to the permit's duration, transfer or renewal, in addition to other conditions specified in this ordinance. All conditional use permits shall expire 12 months from the date of issuance if no action has commenced to establish the authorized use. The issuance of a zoning permit alone does not constitute action.
- (h) *Resubmission.* A conditional use permit application that has been heard and decided shall not be eligible to be resubmitted during the 12 months following the decision unless the applicant submits a written report identifying how the new application differs materially from the previous application or identifying substantial new evidence that will be offered, and provided that the Planning, Zoning and Farmland Preservation Committee votes by simple majority, that the changes or new evidence would be of such significance that the Committee might consider changing the previous decision.

Sec. 82-134. Site Plan Review.

- (a) *Applicability.* The process identified in this section shall be required for the establishment of each use permitted as a site plan review and for the expansion or intensification of such a use. Expansion of a site plan review which would not increase the scale, or intensity of that use shall only require a regular zoning permit.
- (b) *Application.* Applications for site plan review shall contain the following:
- (1) The application requirements for a regular zoning permit identified in Sec. 82.132(b) (1).
 - (2) Utility plan including sanitary systems, water supply, electrical, gas, phone and cable.
 - (3) Landscape plan illustrating existing and proposed landscaping.
 - (4) Erosion and sediment control plan, including stormwater management.
 - (5) Lighting plan indicating how lighting will be provided for parking areas, walkways, drives, security lighting, etc.

(6) The appropriate site plan review fee as established by the Planning, Zoning and Farmland Preservation Committee.

(c) *Complete Application.* No application shall be accepted by the Code Administrator until deemed complete. The applicant shall be notified of any deficiencies within the incomplete application in writing.

(d) *Site Plan Review Process.*

(1) *Application Review.* Upon receipt of the completed application, the Planning, Zoning and Land Information Department shall review the application to determine whether it is in proper form, contains all required information and fees, illustrates compliance with the chapter and other applicable County ordinances, and is legible and clear in its intent.

(2) *Scheduling and Notification.*

A. *Schedule Meeting.* Within 7 working days of an application being deemed complete, the Code Administrator shall schedule the application for review before the “Ad Hoc Site Plan Review Committee” which includes the Code Administrator, County Planner, Town Planner, Director and Town Chair.

B. *Meeting Notice.* 15 calendar days prior to the Ad Hoc Site Plan Review Committee meeting the Code Administrator shall forward a meeting notice, copy of the application and relevant Planning, Zoning and Land Information Department correspondence to the following:

1. Ad Hoc Site Plan Review Committee.
2. Agent and/or attorney.
3. Adjoining land owners within 500 feet of the proposed use.
4. Head of the Public Health and Human Services Department, or their representative, if applicable.
5. Highway Commissioner and Department of Transportation if along or near a state or county highway.
6. Fire Inspector, if applicable.
7. Sheriff or representative.
8. Calumet County Land and Water Conservation Department.
9. Utility representatives (water, gas, electrical, sewer, telephone, cable), if known or deemed applicable.
10. Department of Natural Resources representative, if applicable.
11. Other State, Federal, or local agencies (as determined by the Planning, Zoning and Land Information Department)

- C. *Notice Content.* The meeting notice shall include the name of the applicant, location and general description of the proposed project, and the meeting date, time, location, and information on where to submit written correspondence.
- (3) *The Meeting.* The purpose of the meeting is to provide an opportunity for the Ad Hoc Site Plan Review Committee, affected neighbors, and agencies or their representatives, to reach an agreement on an acceptable site plan. The question of whether the use should be allowed is not to be questioned as the use is permitted by this chapter. The design of the project shall be the issue of the meeting.
- A. *Presider.* The County Planner shall serve as presider and ensure all parties have adequate opportunity to participate in the proceedings, facilitate order, and raise concerns held by the Planning, Zoning and Land Information Department. The Presider shall also take minutes of the proceedings.
 - B. *Procedure.* The meeting is to be conducted in an informal atmosphere. Direct dialogue between the parties shall be allowed, provided fairness to all parties and orderliness are not jeopardized.
 - 1. At the onset of the meeting the applicant shall explain the details of the proposed project and site plan.
 - 2. Following the applicant, any invited party to which a notice was sent can request clarification, ask questions about the proposed use or site plan, or offer alternatives to the site plan.
 - 3. The applicant shall answer all questions to which an answer is known, provided the questions are relevant to the proposed use or site plan, and, shall address any alternatives suggested.
 - 4. Following the question and answer period, any invited party to which a notice was sent can request changes to the site plan. The applicant is required to consider all requests which address the following considerations:
 - a.) Safe vehicular and pedestrian traffic in the area.
 - b.) The visual harmony with buildings and structures in the neighborhood, particularly related to scale, design, and historic scenic or cultural landmarks.
 - c.) Impact from noise, odor or light pollution to neighboring properties or traveling public within 500 feet of the parcel boundaries of the proposed project.
 - d.) Adverse runoff onto adjoining properties.
 - e.) Negative impact to natural character of the area due to the removal of natural vegetation or by altering the topography.
 - 5. Objection, Approval, and Denial.

- a.) If invited parties have no objections to the site plan as presented, or amended, the site plan review application shall be approved.
- b.) If the applicant and invited parties can not reach an agreement on an acceptable site plan, the presider shall terminate the meeting and schedule the matter for review at the next available regularly scheduled monthly meeting of the Planning, Zoning and Farmland Preservation Committee. The Committee shall review the application and input received at the Ad Hoc Site Plan Review Committee meeting and issue a final approval that may include conditions.

Sec. 82-135. Variances.

A landowner or their agent may petition for a variance from the requirements of this chapter subject to par. (a) through (f). However, a variance from the terms of this chapter shall not be given unless the items identified in par. (c), *Standards for Variance*, have been proven. The burden of proof shall be the responsibility of the petitioner.

- (a) *Petition.* A petition for a variance shall be filed by the property owner, or the owner's agent, on forms furnished by the Planning, Zoning and Land Information Department. Such petition shall include the following:
 - (1) Name and address of the property owner and petitioner, if different.
 - (2) Signature of property owner.
 - (3) Location of property involved in the petition.
 - (4) Proposed use or structure in question, including a site plan showing the preferred arrangement for which the variance is sought.
 - (5) Section(s) of this chapter from which a variance is requested.
 - (6) Details as to the narrowness, shallowness, shape, topography or other characteristics of the land or the physical conditions applying to the building, structure, use or intended use which make it not merely inconvenient but extremely difficult if not impossible to comply with the provisions of this chapter.
 - (7) A statement that the conditions detailed above are unique to this property and are not generally existing on other properties in the same zoning district.
 - (8) A statement that the unnecessary hardship was not caused by the applicant nor by any persons still having an interest in the property.
 - (9) A petition for a variance shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
 - (10) Other information as requested by the Code Administrator.
- (b) *Processing.*

- (1) *Public Hearing.* The Board of Adjustments shall hold a public hearing in accordance with Wis. Stat. 59.694(3), Wis. Stats., and after a public notice has been given as provided in Section 82-138(a), *Notice of Public Hearings*. At the hearing, any party may appear in person or by agent or by attorney.
- (2) *Decision.* Within a reasonable time, the Board of Adjustment shall render a decision to either grant or deny the request for variance.
 - A. A variance granted shall be the minimum to permit a use of the property and may contain conditions or guarantees attached thereto by the Board of Adjustment. Unless a permit has been issued, such variance shall expire within 1 year of the written date of the decision to grant the variance.
 - B. A variance runs with the land.
 - C. A variance denied shall be accompanied by the reasons for denial.
- (c) *Standards for Variance.* The property owner bears the burden of proving unnecessary hardship by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. The following variance standards must be met:
 - (1) *Unnecessary Hardship.* That there are present actual physical conditions applying to the parcel, building, structure, use or intended use on that parcel which are creating the unnecessary hardship in the application of this chapter, as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
 - (2) *Unique Condition.* That the conditions described are unique, exceptional, extra ordinary, or unusual circumstances, applying only or primarily to the property under consideration and are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for chapter changes or amendments, or of having that affect if relied upon as the basis for granting a variance.
 - (3) *Conditions Not Self-Created.* That the condition creating the hardship or difficulty was not caused by the petitioner nor by any person still having an interest in the property.
 - (4) *Public Interest.* That in granting the variance there will not be a substantial detriment to neighboring property and the granting of the variance will not be contrary to the purpose of this chapter and the public interest.
 - (5) *Effect on Uses.* No variance shall have the effect of allowing in any district a use not permitted in that district.
- (d) *Resubmission.* A variance petition that has been heard and decided shall not be eligible to be resubmitted during the 12 months following the decision. The 12 month period may be waived by the Board of Adjustment provided that the petitioner submits a written report identifying how the new petition differs materially from the previous petition or identifying substantial new evidence that will be offered, and provided that the Board of Adjustment votes by simple majority that the changes or new evidence would be of such significance that the Board might consider changing the previous decision.
- (f) *Road Projects.* When a structure becomes nonconforming due to an inadequate setback from a road, because the road was widened or relocated by the Town, County, or State, such structure shall not

require the authorization of a variance and shall not be considered a nonconforming structure, in regards to the new setback as a result of the road project. However, no such structure shall thereafter be enlarged or rebuilt in such a manner that it will be closer to the road right-of-way.

Sec. 82-136. Appeals.

(a) *General Provisions.*

- (1) *Purpose.* Where it is alleged there is error in any order, requirement, decision, or determination made by the Code Administrator or the Planning, Zoning and Farmland Preservation Committee, an appeal may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the municipality affected.
- (2) *Filing.* Such appeals shall be filed with the Planning, Zoning and Land Information Department within 30 days of the date of the written notice of the decision or order of the Code Administrator or Planning, Zoning and Farmland Preservation Committee.
- (3) *Stays.* An appeal stays the action unless the department certifies to the Board of Adjustment that, for reasons stated in the certificate, a stay would cause imminent peril to life or property. If the department provides such certification, the action appealed will not be stayed except by a restraining order issued by the Board of Adjustment or a court of law.
- (4) *Fee.* An appeal shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.
- (5) *Record.* The Planning, Zoning and Land Information Department shall forthwith transmit to the Board of Adjustment the appeal and all the documents constituting the record upon which the action appealed was taken.
- (6) *Public Hearing.* The Board of Adjustment shall hold a public hearing in accordance with Wis. Stat. 59.694(3), Wis. Stats., and after a public notice has been given as provided in Sec. 82-138(a), *Notice for Public Hearings*.
- (7) *Decision.* The Board of Adjustment shall render a decision of the appeal in writing within 30 days after the hearing stating specific facts, which are the basis for the Board's decision. The Board of Adjustment may affirm, reverse, vary, or modify the order, requirement, decision or determination appealed from. The Board may also dismiss the appeal for lack of jurisdiction.

Sec. 82-137. Amendments.

(a) *General Provisions.*

- (1) *Amendments.* The Calumet County Board of Supervisors may amend this chapter in accordance with Wis. Stat. 59.69(5)(e).
- (2) *Petition.* A petition for amendment of a county zoning ordinance may be made by a property owner in the area to be affected by the amendment, by the town board of any town in which the ordinance is in effect; by any member of the board, or by the agency designated by the board to consider county zoning matters.
- (3) *Fee.* A petition for an amendment shall be accompanied by a fee established by the Planning, Zoning and Farmland Preservation Committee. All fees are non-refundable.

- (4) *Application.* The application for the petition may be obtained from the department, and the completed petition must be filed with the county clerk. The county clerk shall immediately refer the petition to the Planning, Zoning and Farmland Preservation Committee.
 1. An application to petition for an amendment will not be deemed complete and compliant unless all other applications relating to the proposed project are submitted at the same time.
 2. If the application is incomplete or does not describe the project's full scope, the County will provide written notice to the applicant within 10 days of receiving the incomplete application.
- (5) *Public Hearing.* The Planning, Zoning and Farmland Preservation Committee shall schedule a public hearing on the petition. Notice of the time and place of the hearing will be given by publication of Class 2 Notice as provided under Wis. Stat. ch. 985. A copy of the notice will be sent by registered mail to the Town Clerk for each town affected by the proposed amendment at least 10 days prior to the date of the hearing. A copy of the petition will be sent to the local county board supervisor if the petition seeks a change in zoning district boundaries.
- (6) *Committee Action.* The Planning, Zoning and Farmland Preservation Committee shall act on the petition as soon as possible following the public hearing. The commission may recommend approval, approval with modifications, or disapproval. If it recommends approval or approval with modifications, it shall cause an ordinance to be drafted effectuating its determination and it shall submit the proposed ordinance directly to the county board with its recommendations. If it recommends denial of the petition, it shall report its recommendations directly to the county board with its reasons for the action.
- (7) *County Board Action.* The county board may enact the ordinance as drafted or with amendments, or it may deny the petition. If the commission has recommended that the petition be denied, the county board may refuse to accept the recommendation and send the petition back to the commission with directions to draft an ordinance and report back to the county board. The county board's actions are subject to the provisions contained in Wis. Stat. § 59.69(5)(g) providing special voting requirements in the event of a protest by abutting owners. The county board's actions are subject to the provision contained in Wis. Stat. § 59.69 pertaining to approval or disapproval of ordinances and amendments by towns and town boards.
- (8) *Resubmission.* A petition for zoning amendment that has been heard and decided shall not be eligible to be resubmitted during the 12 months following final action by the Calumet County Board of Supervisors. The 12 month period may be waived by the Planning, Zoning and Farmland Preservation Committee provided that the petitioner submits a written report identifying how the new zoning amendment petition differs substantially from the previous petition or identifying substantial new evidence that will be offered, and provided that the Planning, Zoning and Farmland Preservation Committee vote by simple majority that the changes or new evidence would be of such significance that the Calumet County Board of Supervisors might consider changing the previous decision.

Sec. 82-138. Public Hearings.

Notice of any public hearing which the Planning, Zoning and Farmland Preservation Committee or Board of Adjustment is required to hold shall be given by publishing a Class 2 Notice in accordance with Ch. 985, Wis. Stats. The notice shall specify the time and place of such hearing. If the public hearing involves a petition for a

zoning amendment, a copy of the hearing notice shall be mailed by registered mail to the Town Clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing.

Sec. 82-139. – Sec. 82-144. Reserved.

ARTICLE XI. ADMINISTRATION

Sec. 82-145. Planning, Zoning and Farmland Preservation Committee.

- (a) *Designated Agency.* The Planning, Zoning and Farmland Preservation Committee, created by the Calumet County Board of Supervisors, shall be the designated County Zoning Agency pursuant to Wis. Stat. 59.69(2).
- (b) *Compliance.* The Planning, Zoning and Farmland Preservation Committee shall adopt and follow any governing rules of procedure as specified in Wis. Stat. 59.69(2), and shall comply with the Wisconsin Open Meeting Law as specified in Wis. Stats 19.81 through 19.98.
- (c) *Duties and Powers.* In administering this chapter, the duties and powers of the Planning, Zoning and Farmland Preservation Committee shall be as follows:
 - (1) Supervise the administration of this chapter.
 - (2) Exercise those duties and powers specified in Wis. Stats. 59.69.
 - (3) Hold public hearings as required by this chapter, by Wisconsin Statutes, or by its own motions.
 - (4) Submit recommendations to the Calumet County Board of Supervisors for or against proposed zoning text and map amendments.
 - (5) Issue or deny conditional use permits, and establish any conditions for such permits.
 - (6) Preside over the formal site plan review procedures and resolve disputes if no agreement can be reached between the affected parties, according to the procedures described in Sec. 82-134, *Site Plan Review*.
 - (7) Any other duties determined by the Calumet County Board of Supervisors.
- (d) *Financial Sureties.*
 - (1) The Planning, Zoning and Farmland Preservation Committee may require that a performance bond or letter of credit be provided for the benefit of the County and filed with the County so as to ensure compliance with the terms of this chapter or required permit. Failure to provide or maintain such bond or letter of credit shall invalidate any permit.

Sec. 82-146. Board of Adjustment.

- (a) *Establishment.* There is hereby established a Board of Adjustment for Calumet County as authorized by s. 59.694, Wis. Stats.
- (b) *Membership.*

- (1) *Size and Appointment.* The Board of Adjustment shall consist of 5 members and 2 alternate members appointed by the County Administrator and affirmed by the Calumet County Board of Supervisors.
- (2) *Eligibility.* Members of the Board of Adjustment shall reside in the unincorporated areas of Calumet County. No two members of the Board of Adjustment shall reside in the same town. Preference shall be given to members who reside in a town, which has adopted County zoning.
- (3) *Terms of Office.* The term of office shall be 3 years. However, these terms of office shall be staggered such that no more than two member's terms of office are expired in any 1 year. Each term shall begin July 1.
- (4) *Officers.* The Board of Adjustment shall choose its own chairperson, vice-chairperson and recording secretary.
- (5) *Removal.* Members may be removed by the Chairperson of the Calumet County Board of Supervisors for cause upon written charges. Cause may include excessive absenteeism.

(c) *Operation and Rules.*

- (1) *Adoption.* The Board of Adjustment shall adopt rules for the conduct of its business, which shall be in accordance with the provisions of this chapter and s. 59.69, Wis. Stats.
- (2) *Call to Meetings.* The Board of Adjustment shall meet at the call of the chair, and at such other time as the Board of Adjustment may determine, at a fixed time and place.
- (3) *Open Meetings.* All meetings of the Board of Adjustment shall be open to the public, unless authorized by Wisconsin Law.
- (4) *Minutes.* The Board of Adjustment 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 examination and other official actions, all of which shall be public record.
- (5) *Assistance.* In the case of all appeals, the Board of Adjustment may call upon the Planning, Zoning and Farmland Preservation Committee for all information pertinent to the decision appealed from.
- (6) *Quorum.* The quorum for any meeting shall consist of majority of members.
- (7) *Oaths.* The chair may administer oaths and compel the attendance of witnesses.

(d) *Powers.* The Board of Adjustment shall have the following powers:

- (1) *Appeals.* Unless restricted elsewhere in this code, to hear and decide appeals, pursuant to s. 59.694(7), Wis. Stats., where it is alleged there is error in any order, requirement, decision or determination made by the Code Administrator or the Planning, Zoning and Farmland Preservation Committee. In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, which is the subject of the appeal and to that end, shall have all the powers of the Committee or officer from whom the appeal is taken.

- (2) *Variances.* To hear and authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. Such variance shall not have the effect of permitting in any district a use that is prohibited in that district.

Sec. 82-147. Planning, Zoning and Land Information Director.

In administering this chapter, the Planning, Zoning and Land Information Director shall possess the following duties and powers:

- (a) Oversee the Code Administrator in carrying out the assigned responsibilities of this chapter.
- (b) Make necessary studies relevant to deliberations regarding conditional use permits, as directed by the Planning, Zoning and Farmland Preservation Committee.
- (c) Serve as a member of the Ad Hoc Site Plan Review Committee.
- (d) Recommend to the Planning, Zoning and Farmland Preservation Committee amendments necessary to make this chapter more effective.
- (e) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee.

Sec. 82-148. Code Administrator.

The Code Administrator shall possess the following duties and powers:

- (a) Administer and enforce this chapter as the authorized representative of the Planning, Zoning and Farmland Preservation Committee.
- (b) Provide to the public the necessary permit application and other forms relevant to this chapter. Assist the public in preparing applications and forms as necessary.
- (c) Conduct all necessary on-site inspections and investigations of structures, lands, waters and uses to certify compliance with this chapter.
- (d) Issue or deny regular zoning permits and sign permits.
- (e) Suspend or revoke zoning permits and sign permits and/or issue cease and desist orders upon non-compliance with the terms of the permit and/or this chapter.
- (f) Investigate alleged zoning violations and give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises.
- (g) Report uncorrected violations to the Calumet County Corporation Counsel and assist the Corporation Counsel in initiating enforcement proceedings. Issue citations as necessary.
- (h) Gain entry to premises, buildings and structures during reasonable hours for the purpose of investigating applications for permit and for the purpose of determining compliance with this chapter or with any issued permit. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with Wis. Stat. 66.0119(1) and (2).

- (i) When necessary, provide technical and clerical assistance during hearings conducted by the Board of Adjustment or the Planning, Zoning and Farmland Preservation Committee.
- (j) Serve as a member of the Ad Hoc Site Plan Review Committee.
- (k) Any other duties assigned by the Planning, Zoning and Farmland Preservation Committee or the Planning, Zoning and Land Information Director.

Sec. 82-149 – 82-154. Reserved.

ARTICLE XII. ENFORCEMENT

Sec. 82-155. Violations.

- (a) *Unlawful Activity.* It shall be unlawful to locate, erect, construct, reconstruct, alter, enlarge, extend, convert, or relocate any building, structure, or sign or use any building structure, land, or sign in violation of the provisions of this chapter or amendments or supplements thereto, lawfully adopted by the Calumet County Board of Supervisors. It shall also be unlawful to fail to obtain permits as required by this chapter or to fail to comply with any requirement or condition imposed by the Board of Adjustment or Planning, Zoning, and Farmland Preservation Committee.
- (b) *Separate Offense.* Each and every day of violation described in par. (a), *Unlawful Activity*, shall be deemed a separate offense and violation.
- (c) *Prosecution.* Any person, firm, association, corporation or representative agent failing to comply with the provisions of this chapter may be subject to prosecution under the terms of this chapter.

Sec. 82-156. Prosecution.

- (a) *Civil Proceedings.* Pursuant to Wis. Stat. 66.0114, an action for violation of this chapter shall be a civil action.
- (b) *Notification.* The Code Administrator shall serve any violators with a correction notice stating the following:
 - (1) The nature of the violation.
 - (2) Corrective measures required to eliminate the violation.
 - (3) The date that the violation must be corrected by.
 - (4) The Penalties to be applied if corrective actions are not taken by the specified date.
- (c) *Corporation Counsel.* If the violation is not timely addressed, the Code Administrator shall report violations to the Calumet County Corporation Counsel. At the Corporation Counsel's discretion, legal action or proceedings may be commenced to prosecute alleged violators pursuant to the proceedings outlined in Wis. Stat. 66.0114, or pursuant to issuance of a Summons and Complaint.
- (d) *Injunction.* Compliance with this chapter may also be enforced by an injunction sought by Calumet County or the owner or owners of real estate within the zoning district affected by such regulation.
- (e) *Penalty.* Those actions commenced on behalf of Calumet County, may, in addition, seek a forfeiture or penalty as outlined herein.
- (f) *Special Inspections Warrants.* The provisions of s. 66.0119(1) and (2), Wis. Stats., shall govern the issuance of all special inspection warrants.

Sec. 82-157. Penalties.

Any person, firm, association, corporation or representative agent who fails to comply with the provisions of this chapter or any order of the Code Administrator or the Planning, Zoning and Farmland Preservation

Committee or the Board of Adjustment, issued in accordance with this chapter shall, upon conviction thereof, forfeit, not less than \$10 nor more than \$500 and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and cost shall be imprisoned until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate violation.

Sec. 82-158. After-the-Fact Conditional Use Permit Applications and Variance Petitions.

- (a) *After-the-Fact Conditional Use Applications and Variance Petitions.* If a building, structure or premises is used to establish a use requiring a conditional use permit or a building or structure is constructed in violation of any dimensional requirement of this chapter, the responsible party may attempt to correct the violation by petitioning for an after-the-fact variance or conditional use permit. After-the-fact conditional use permit applications shall not be deemed complete until a double permit application fee has been submitted. All fees are non-refundable.

Sec. 82-159. Reserved.

(History: Ordinance No. 2009-10, 11-2-2009; Ordinance No. 2010-04, 7-10-2010; Ordinance 2010-18, December 21, 2010; Ordinance No. 2011-06; Ordinance No. 2011-07, November 1, 2011; Ordinance 2013-7, November 4, 2013 entire Chapter; Ordinance 2015-1, April 21, 2015 entire Chapter; Ordinance 2019-3, September 17, 2019 Comprehensive Revision.)

CODE COMPARATIVE TABLE

ORDINANCES

This is a chronological listing of the ordinances of the county used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

Ordinance Number	Date	Section	Section this Code
29	8-18-1970	I--VII	42-6
35	9-26-1972	1--8	14-4
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40	12-19-1972		70-9
		5	70-6
		6	70-3
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		23	78-44
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76	12-20-1977		1-8
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