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Zoning Ordinance – Town of Herman

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SECTION 7.1 INTRODUCTION

AN ORDINANCE PROVIDING ZONING AND BUILDING REGULATIONS FOR THE TOWN OF HERMAN, SHEBOYGAN COUNTY, WISCONSIN.

7.1.1 Authority

In accordance with the authority granted by Sections 60.61, 60.62, 61.35, 62.23, 295.14 and Chapter 91 of the Wisconsin Statutes and for the purpose listed in Section 62.23 (7)(c) of the Wisconsin Statutes, the Town Board of Herman, Sheboygan County, Wisconsin, does hereby ordain these zoning regulations.

7.1.2 Title

This Ordinance shall be known as, referred to or cited as the "Town of Herman Zoning Ordinance - Chapter 7".

7.1.3 Purpose and Intent

The purpose of this Ordinance is to adopt minimum requirements to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the Town; to aid in implementing the Town of Herman Comprehensive Plan and the Sheboygan County Farmland Preservation Plan.

7.1.4 Compliance

No future building or structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the Town of Herman without being in full compliance with the provision of this ordinance.

7.1.5 Abrogation and Greater Restrictions

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

7.1.6 Interpretation

The provisions of this Ordinance shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

7.1.7 Severability

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

7.1.8 Conflicting Provisions

All other Town of Herman ordinances or parts of Town of Herman ordinances in conflict with the provisions of the Ordinance are hereby repealed.

7.1.9 Effective Date

The power to adopt a town zoning ordinance having been approved by referendum vote of the electors of the town held at the time of a regular annual town meeting and a public hearing having been held regarding this Ordinance following the giving of requisite notice, the adoption by the Town Board original ordinance was named effective following publication.

SECTION 7.2 GENERAL PROVISIONS

7.2.1 Jurisdiction

To the extent permitted by law, the jurisdiction of this Ordinance shall include all lands and waters within the boundaries of the Town of Herman. In the shoreland and floodplain areas under the dual jurisdiction of the Town of Herman and Sheboygan County, this ordinance and the Sheboygan County regulations shall be in full effect and all requirements shall be met to the extent permitted by law. In addition, Army Corp of Engineers and Wisconsin Department of Natural Resources regulations may apply in wetland and floodplain areas. It is the responsibility of the permit applicant to secure all other necessary permits required by any federal, state, or county agency. Similarly, it is the responsibility of the permit applicant to secure any other necessary Town of Herman permits. Finally, all residences are subject to the Uniform Dwelling Code, administered by the building inspector.

7.2.2 Compliance

No future building or structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the Town of Herman without being in full compliance with the provision of this ordinance.

7.2.3 Authority of the Town Board

The Town Board, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this Ordinance. The Town Board, in general, performs the following functions:

1. Approves or disapproves any application for an amendment to this Ordinance, including applications for amendment to the official zoning map.
2. Approves or disapproves proposed amendments to the Town's adopted Comprehensive Plan.
3. Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this Ordinance.

7.2.4 Duties of the Zoning Administrator and Town Clerk

The Town Zoning Administrator is hereby designated by the Town Board as the administrative and enforcement officer for the provisions of this Ordinance. The Town Zoning Administrator is not required to reside or own land in the Town of Herman. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue all permits required by this Ordinance.

(1) Duties

The Zoning Administrator is responsible for performing the following duties:

- A. Review and approve or deny all applications for zoning permits for permitted uses, and any other permits required by this Ordinance.
- B. Conduct pre-application conferences with petitioners for zoning amendments.
- C. Conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this Ordinance.
- D. Make investigations with respect to matters referred to in this Ordinance.
- E. Enforce all orders of the Board of Appeals.

- F. Revoke by order, any permit approved under misstatement of fact or contrary to the provisions of this Ordinance.

(2) Town Clerk Support

The Zoning Administrator shall be supported by the Town Clerk as follows:

- A. Provide necessary forms and applications for permits.
- B. Maintain records.
- C. Receive, certify for completeness and forward to the Plan Commission all applications requiring Plan Commission review as prescribed by this Ordinance.
- D. Have possession of permanent and current records of this Ordinance, including the Town's official zoning map and amendments to the official zoning map, Conditional Use Permits, Board of Appeals decisions, and ordinance amendments.
- E. Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Appeals on those applications upon which the Board of Appeals is required to act.

(3) Notice of Violation

If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he or she shall notify, in writing by registered or certified mail, the person(s) responsible indicating the nature of the violation and ordering the action necessary to correct the violation. Whenever a person shall have been notified in writing that he or she is in violation of the provisions of this Ordinance, such person shall commence correction of all violations within ten days of notice and shall correct all violations within 45 days of notice. If such corrections are not commenced within ten days of written notice or not corrected with 45 days of written notice, each day that a violation continues shall be considered a separate offense.

7.2.5 Zoning Permit

(1) Timeline:

A zoning permit shall be granted or denied in writing by the Zoning Administrator within 30 calendar days of a complete application. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. Zoning Permits shall expire twelve (12) months after issuance unless substantial work has commenced or granted an extension by the Town Board. If a complete permit application is not acted upon within six (6) months of the date received, it shall be deemed to have been approved.

(2) When Required:

A zoning permit shall be required for the construction, reconstruction, location, relocation, erection, extension, enlargement, conversion, or structural alteration of any use, building, structure, or part thereof, unless specifically exempted by this Ordinance (See Section 2.6).

(3) Application:

An application for a zoning permit shall be submitted to the Zoning Administrator on forms furnished by the Town and shall include the following information:

- A. Name and address of the property owner.
- B. Signature of the property owner or agent.
- C. 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. 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-way, private roads, easements, wetlands, and navigable waters.
 - 3. The location and dimensions of any existing or proposed uses, structures or additions and their relationship to abutting public roads and right-of-way, street grades, 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.
 - 4. Location of proposed or existing road access points, parking and loading areas, and driveways.
- F. Satisfactory evidence of the proposed structure and/or use in compliance with Sections 7.5, 7.6, and 7.7.
- G. Additional information as may be required on the application or by the Zoning Administrator in order to determine the full compliance with the requirements of this Ordinance.
- H. Place stakes at the exterior corners of the proposed use, building, or structure on the proposed lot in which the applicant desires to build or change the use.

(4) Application Acceptance:

- A. No application shall be accepted by the Zoning Administrator until deemed complete as judged by the Zoning Administrator and until the application is signed and all fees established have been paid in full.
- B. Upon the Zoning Administrator's determination that the proposed use, building, or structure complies with the provisions of this Ordinance, a zoning permit shall be issued. The permit shall authorize the applicant to proceed subject to all provisions of the Ordinance.

(5) Application Denial:

- A. An application for a use, building, or structure not in conformity with the provisions of this Ordinance shall be denied a zoning permit and the reasons for denial shall be stated. In the event the permit is denied, the application fee will not be refunded. No permit shall be issued for uses, buildings, or structures involving human occupancy without documentation that provision has been made for safe and adequate water supply and disposal of sewage.
- B. The Town of Herman reserves the right to withhold issuing a permit until compliance has been determined with other applicable chapters of the *Town of Herman Code of Ordinances*.

(6) Permit Expiration:

If construction has commenced prior to the expiration of a zoning permit, but is not completed prior to such expiration, a 12-month renewal zoning permit may be issued by the Zoning Administrator upon submittal of a renewal application, required application items and fee. Additional renewals shall be granted by the Zoning Administrator upon a finding that progress had been made during the previous year toward completion of the structure. If a 12-month period passes without evidence of progress towards completion, the Zoning Administrator shall advise the Town Board of same, and the Town Board may hold a public hearing on the matter and may impose a completion schedule. The cost of the public hearing shall be borne by the applicant. For purposes of this Ordinance, a structure shall be deemed completed when the roof, exterior walls, doors, windows, and sub floors are in place and finished, appurtenances authorized by the permit (such as decks) are completed, and the sanitary waste disposal system and adequate water supply have been installed (if applicable).

- (7) Fees:
Fees shall be set from time to time by the Town Board through the Town of Herman Fee Schedule.
- (8) Failure to Act:
If an application for a proposed Zoning Permit is not acted upon finally by the Zoning Administrator within six (6) months of the date upon which the Zoning Administrator determines the application complete, it shall be deemed to have been approved.

7.2.6 Uses Not Requiring a Zoning Permit

No Zoning Permit shall be required for any of the following cases:

- (1) For any improvement or alteration to an existing building, 200 square feet or less in area, this does not affect a change in use.
- (2) For repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.
- (3) Signs requiring a sign permit.
- (4) Any reconstruction, conversion, or structural alteration that does not result in any change to the existing outer walls and/or roof of an existing building unless the purpose is to convert a building not used for human habitation to one used for human habitation.
- (5) Agriculture forage storage bags
- (6) Uses permitted as Conditional Use (require a Conditional Use Permit – see Section 4.0).
- (7) However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.

7.2.7 Reserved

7.2.8 Site Restrictions

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

(1) Dimensions of Building Sites:

- A. Lot Size, Area and Yard Requirements: The minimum lot and area requirements shall conform with Table 1.
- B. Lot Width: The minimum lot width shall be measured at the building line, water's edge and at the road frontage marks.

(2) Height Limitations: The maximum height for all residential structures shall be thirty-five (35) feet. The maximum height for all commercial and industrial structures shall be sixty (60) feet. The maximum height for all non-farm accessory structures shall be thirty-five (35) feet. Height limitations are further regulated per Section 6.1 of this Ordinance.

(3) Yard and Other Limitations: Per Sections 7.6.2, and 7.6.3 of this Ordinance.

(4) Road Setbacks: All new structures shall be regulated in accordance with Section 7.5 of this Ordinance.

(5) Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Zoning Administrator or their designee as being in satisfactory relationship with the existing street grade, with consideration for proper drainage and safe vehicular access.

(6) Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope within the zoning setback distance except with the written consent of the abutting property owner and with the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected

against erosion.

Table 1

Lot Size/Area Requirements

*Maybe subject to Town Livestock Siting License Ordinance provisions. Check with Town Clerk.

Zoning Category	Lot Width	Lot Area	Building Height	Street Setback	Rear Setback for All Structures	Side Setback for All Structures
FP (Also See Section 7.14)	250'	5 Acres	Res – 35' Farm Bldgs–60'	See Section 7.5.5 (C)	Barn for livestock 50*. House, sheds, machine and crop storage facilities 20'	Barn for livestock 50*. House, sheds, machine and crop storage facilities 20'
RD	150'	1 Acre - Existing Lots (At time of ordinance adoption) 5 Acres - New Land Divisions	Res – 35' Farm Bldgs–60'	See Section 7.5.5 (C)	Barn for livestock 50'. House, sheds, machine and crop storage facilities 20'	Barn for livestock 50'. House, sheds, machine and crop storage facilities 20'
R-1	125'	1 Acre	Res – 35'	See Section 7.5.5 (C)	20'	15'
R-2	125'	20,000 sq. ft.	Res – 35'	See Section 7.5.5 (C)	20'	10'
B	125'	1 Acre	Com – 35'	See Section 7.5.5 (C)	20'	20'
IM	125'	1 Acre	Ind – 60'	See Section 7.5.5 (C)	50'	50'
PI	125'	1 Acre	Inst – 60'	See Section 7.5.5 (C)	20'	20'
REC	125'	1 Acre	Com – 35'	See Section 7.5.5 (C)	20'	20'
CMU	50'	10,000 sq. ft.	Res – 35' Com – 35'	See Section 7.5.5 (C)	10'	5'
LCD	125'	3 Acres	Res – 35'	See Section 7.5.5 (C)	20'	20'

7.2.9 Use Restrictions

The following use restrictions and regulations shall apply:

- (1) Principal Uses: Only those uses specified for a zoning district shall be permitted in the district.
- (2) Accessory Uses: Accessory uses and structures are permitted in any district. Residential accessory uses shall not be used as a dwelling or involve the conduct of any business, trade, or industry except home occupations as defined in this Ordinance (Section 7.4.4). Accessory uses in the FP district must meet the requirements as defined in Section 7.14 of this ordinance.
- (3) Conditional Uses: Conditional uses and their accessory uses are those which require review, public hearing, and approval by the Town Board in accordance with Section 7.4. The only conditional uses and structures permitted by this Ordinance shall be those enumerated in the Schedule of District Regulations in Section 7.3.5 and 7.14.1.
- (4) Signs: Signs in accordance with Section 7.7.
- (5) Nonconforming Uses: Nonconforming uses in accordance with Section 7.8.
- (6) Temporary Uses: Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator through the issuance of a Certificate Zoning Compliance for a period not to exceed six (6) months. This temporary certificate may be renewed semi-annually, but in no case shall the effective time span of the Certificates exceed two years.
- (7) Mobile Home Regulations: No person shall locate, park, use, own or occupy a mobile home outside an approved mobile home park in the town except as herein expressly provided. (See Section 7.13 for Mobile Home definition.)
 - A. A person who presently owns or occupies a mobile home in the town located outside of a mobile home park, and who does not meet the criteria of this ordinance, may continue to use and occupy the mobile home for residential purposes; however, its use is a Nonconforming Use until:
 1. The mobile home is not occupied nor used for residential purposes.
 2. The mobile home is not primarily or permanently occupied and used by the present occupant and his or her immediate family.
 3. The mobile home is not maintained in a sanitary condition.
 4. The mobile home does not comply with the town's building codes, the State of Wisconsin building codes and the rules and regulations of the State Department of Health and Social Services, including the state plumbing code.

5. The mobile home constitutes a public nuisance.
 6. The present occupant transfers, leases, or conveys in any way the title to the mobile home to another person outside the immediate family.
 7. The mobile home is moved to a different premise in or outside the town beyond the specific location where the mobile home is currently parked.
- (8) **Utilities:** Upon notification of the Town Board, public utility uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Section 196.491(3) of the Wisconsin Statutes are exempt from the requirements of this Ordinance and shall not be required to obtain a Zoning Permit.
- (9) **Unclassified or Unspecified Uses:** May be permitted by the Board of Appeals after review and recommendation by the Plan Commission and provided that such uses are similar in character to the principal use existing in the district and that no material detriment to adjoining property will result.

7.2.10 Performance Standards

Standards listed in Section 7.12 shall be complied with by all uses in all districts.

7.2.11 Violations

It shall be unlawful to construct any structure or building or to use any structure, building, land or water in violation of any of the provisions of this Ordinance. In case of any violation, the Town of Herman, The Zoning Administrator, or any property owner who would specifically be damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

7.2.12 Authority to Bring Action

The Town Board may take action to enjoin, remove, or vacate any use, erection, moving, placement, or structural alteration of any building, structure or use in violation of this Ordinance after review by the Plan Commission.

7.2.13 Penalties

Any individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity who fails to comply with the provisions of this Ordinance or any order of the Town issued in accordance with this Ordinance, or resists enforcement, shall, upon conviction thereof, forfeit not more than \$500 for each offense, together with the costs of prosecution and attorneys' fees and, in default of payment of such forfeiture, shall be imprisoned in the County Jail of Sheboygan County until such forfeiture and costs are paid, but not to exceed thirty (30) days. Each day a violation continues to exist shall constitute a separate offense.

7.2.14 Reimbursement of Costs

Costs of any legal, engineering, or other professional fees incurred by the Town regarding a Conditional Use Application, Performance Standards, or any other standards related to the administration of this Ordinance shall be paid to the Town by the applicant before issuance of associated permits. A decision by the Town Board to decline to issue a permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection. Further, after the issuance of a permit, any such fees incurred by the Town for the purpose of verifying compliance with Ordinance standards shall likewise be reimbursed by the applicant or subsequent property owner within 60 days of notice by the Town.

SECTION 7.3 ZONING DISTRICTS

7.3.1 Establishment of Primary Use Districts

For the purpose of this Ordinance, the following primary use districts are hereby established with the Town of Herman.

Primary Use Districts

FP	-	Farmland Preservation (See Section 14)
RD	-	Rural
R-1	-	Residential
R-2	-	Residential Condensed
B	-	Business
IM	-	Industrial & Manufacturing
PI	-	Public & Institutional
REC	-	Recreational
CMU	-	Concentrated Mixed Use
LCD	-	Land Conservation
BRIP	-	Business, Research, and Light Industrial Park District

7.3.2 Official Zoning Map

A certified copy of the official zoning map is adopted and approved with the text of this Ordinance. Said map and any certified amendments or changes thereto are as much a part of this Ordinance as this text and shall have full force and effect on the adoption of this Ordinance.

The boundaries of the zoning districts enumerated in Sec. 7.3 are hereby established as shown on the Official Farmland Preservation Zoning Map of the Town of Herman, Sheboygan County, Wisconsin adopted and incorporated herewith by reference. The Official Farmland Preservation Zoning Map shall be on file and available for public inspection at the office of the Town Clerk, Town of Herman. The Official Farmland Preservation Zoning Map shall be revised promptly upon the approval of any zoning map amendment requests.

7.3.3 Interpretation of District Boundaries

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

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

7.3.4 Uses Regulated

No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not specified in this Ordinance may, nonetheless, be allowed by the Town Board after application, only if such uses are substantially similar in character to specific permitted or conditional uses in the applicable district.

7.3.5 District Regulations

(1) FP - Farmland Preservation Zoning District (See Section 7.14)

(2) RD - Rural District

The purpose of this district shall be to promote an area for general agricultural, forestry, outdoor recreation, open space, rural residential living, and their complimentary uses. Note that agriculture-related terms are defined in Section 7.14.4.

A. Permitted Uses

1. Agricultural uses. Within the context of agricultural uses, animal units mean domestic animals traditionally used in this state in the production of food, fiber, or other animal products. Includes cattle, swine, poultry, sheep, goats, equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids, or mink. Beekeeping, grazing, field crops, forestry, green houses (home use), orchards, tree & shrub nurseries, mushrooms, wild crop harvesting and other horticultural activities that provide on-site sales of raw products. Animals shall not exceed a density of more than two animal units per acre. Animal units shall be defined per Section 7.14.4 or ATCP 51.
2. Agriculture accessory uses (See Section 7.14.4 definition)
3. Blacksmithing
4. Christmas tree and wreath sales
5. Fish hatchery
6. Home occupational business – minor (See Section 7.4.4)
7. Hunting and fishing shelters
8. Licensed game farms
9. Maple syrup processing
10. Orchards & vineyards (with on-site sales of raw product)
11. On-farm butchering for personal use
12. One recreational vehicle intended for temporary parking.
13. Park, playground, and play fields.
14. Plant nurseries (with no on-site sales)
15. Pond (with required agency permits if applicable)
16. Prior legal nonconforming uses that were in existence as of December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
17. Portable sawmill and debarking operations not to operate in one location (1/4,1/4 section), in excess of 12 months.
18. Outdoor wood burners
19. Roadside stands for sale of farm produce

20. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property.
21. Sod farming
22. Solar energy systems, small-scale.
23. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
24. Undeveloped natural resource and open space areas
25. Wind energy systems for primarily on-site use
26. Woodland management

B. Conditional Uses

1. Agriculture related use (Section 7.14.4 definition)
2. Animal boarding and breeding facilities including licensed dog kennels.
3. Animal hospital and clinics
4. Bed and breakfast establishments
5. Campgrounds (See Section 7.4.2)
6. Canning and processing of specialty foods
7. Cereals preparation
8. Cheese or dairy processing plants
9. Commercial landscape and nursery sales
10. Contractor offices and yards
11. Corn and soybean shelling and drying (commercial)
12. Duplexes
13. Equestrian trails & stables
14. Exotic animals not typically associated with Wisconsin and/or agricultural farming practices (See Section 7.13 Definition)
15. Family day care home
16. Farm equipment sales and service (implements of husbandry)
17. Farm machinery repair and storage
18. Farms operated for the disposal or reduction of garbage, sewage or offal.
19. Feed preparation for livestock and fowl
20. Fertilizer production, sales, and storage
21. Filling, drainage, and dredging (with required agency permits if applicable)
22. Flour and other grain mill preparation and blending
23. Fruit, vegetable, and specialty foods, contract sorting, grading, packaging, canning, drying, and dehydrating, freezing, and pickling.
24. Fur bearing animals.
25. Greenhouses (with or without on-site sales)
26. Golf courses
27. Grain elevators and storage of feed grains (commercial)
28. Grist mill services

29. Governmental, religious, or cultural uses such as town halls, police and fire stations, libraries, churches, cemeteries, schools, and parks
30. Hay baling and threshing services
31. Home Occupational - major (See Section 7.4.4)
32. Horticultural services
33. Housing for seasonal agriculture workers
34. Indoor storage and wholesaling
35. Kennels
36. Landscaping business
37. Large (greater than 2000 gallons) on-farm fuel or agrichemical storage facilities
38. Livestock sales facilities
39. Manure storage systems (Please note that permits for manure storage systems are subject to s. ATCP 50.56 and Ch. ATCP 51, Wis. Adm. Code)
40. Meat and game processing of specialty products
41. Milling of corn (wet)
42. Oil and gas exploration or production that is licensed by the WDNR under Subchapter II of Chapter 295, Wisconsin Statutes
43. Outdoor public recreation – active
44. Outdoor public recreation – passive
45. Outdoor storage and wholesaling
46. Orchard & vineyards (with on-site sales of refined products)
47. Personal storage facility (mini warehouse)
48. Plant nurseries (with on-site sales)
49. Poultry hatchery services
50. Poultry and small game dressing and packing provided that all operations be conducted within an enclosed building.
51. Private airport or air strip
52. Processing agricultural by-products or wastes received directly from farms, including farms in the RD & FP zoning district.
53. Quasi-public clubs and lodges
54. Recreational, religious and/or youth camps
55. Residential dwelling units not to exceed one per principal use when accessory to the principal use.
56. Roadside stands for the sale of farm products
57. Sale of bait for fishing and sporting goods and supplies
58. Sawmill and debarking operations
59. Seed production, processing, and sales
60. Shortening, table oils, margarine, and other edible fat and oil production
61. Single-Family residence accessory to a business use
62. Slaughtering of livestock from the RD and FP District
63. Solar energy systems, large-and mid-scale.
64. Transportation, communications, pipeline, electric transmission, wind energy systems, utility or other uses that is not required under state or federal law.
65. Transportation-related activities primarily serving the basic agricultural industry.
66. Truck farming

- 67. Veterinary clinics
- 68. Welding and repairs
- 69. Wind energy systems when the primary intent is for export and the sale of energy.
- 70. Winery (using local produce only)
- 71. Event Venue

B. Area, Height, and Yard Requirements: See Section 7.2.8.

(3) R-1 - Residential District

The primary purpose of this district shall be to accommodate residential uses.

A. Permitted Uses

- 1. Crop farming, forestry, and open space
- 2. Family Day Care out of a residential home.
- 3. Home occupations - Minor. (See Section 7.4.4)
- 4. Prior legal nonconforming uses that were in existence as December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
- 5. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory structures may be used as dwelling units. Includes manufactured & modular homes as defined in Section 7.13.
- 6. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
- 7. Solar energy systems, small-scale.

B. Conditional Uses

- 1. Bed and breakfast establishments
- 2. Governmental, religious, and cultural uses such as fire and police stations, schools, churches, cemeteries, and libraries
- 3. Home occupation - Major. (See Section 7.4.4)
- 4. Multi-Family residential
- 5. Nurseries and greenhouses
- 6. Transportation, utility, communication, or other uses that is not required under state or federal law.
- 7. Two-Family residential

C. Area, Height, and Yard Requirements: See Section 7.2.8.

(4) R-2 - Residential Condensed District

The primary purpose of this district shall be to accommodate residential use on condensed lots.

A. Permitted Uses

1. Crop farming, forestry, and open space
2. Family Day Care out of a residential home.
3. Home occupations - Minor. (See Section 7.4.4)
4. Prior legal nonconforming uses that were in existence as December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
5. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory structures may be used as dwelling units. Includes manufactured & modular homes as defined in Section 13.
6. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
7. Solar energy systems, small scale.

B. Conditional Uses

1. Bed and breakfast establishments
2. Governmental, religious, and cultural uses such as fire and police stations, schools, churches, cemeteries, and libraries.
3. Home occupation - Major. (See Section 7.4.4)
4. Multi-Family residential
5. Nurseries and greenhouses
6. Transportation, utility, communication, or other uses that is not required under state or federal law.
7. Two-Family residential

C. Area Height and Yard Requirements See Section 7.2.8

(5) B - Business District

The purpose of this district shall be to promote an area for retail and service-oriented establishments.

A. Permitted Uses

1. Antiques, arts, and crafts dealers and sales
2. Appliance stores
3. Athletic clubs and gyms (private)
4. Automobile, truck, and vehicle sales, repair, and retail services
5. Bakeries
6. Barber and beauty shops
7. Bed and breakfast establishments

8. Beverage stores
9. Bicycle sales and repair shops
10. Book and music stores
11. Breweries and distilleries
12. Building supplies sales
13. Candy, nut, and confectionery sales
14. Car washes
15. Carpet and tile sales
16. Caterers
17. Cellular phone sales and service
18. Churches and houses of worship
19. Christmas tree and wreath sales
20. Coffee shops and snack bars
21. Commercial greenhouses, landscape, and nursery businesses
22. Contractor storage yards and/or offices
23. Crop farming, forestry, and open space
24. Dancing schools
25. Department stores
26. Drive-in establishments serving food or beverages for consumption outside the structure
27. Electrician services
28. Farm equipment sales and service
29. Financial institutions
30. Florists
31. Food and meat lockers
32. Funeral homes and crematories
33. Furniture stores and upholstery shops
34. Gift, novelty, and souvenir sales
35. Governmental, institutional, religious, and nonprofit community uses.
36. Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums
37. Grocery stores, supermarkets, and mini marts
38. Hardware stores
39. Heating, ventilation, and cooling (HVAC) services
40. Home occupations-Minor
41. Hotels
42. Ice cream and soda sales stands or shops.
43. In vehicle sales and service
44. Indoor lodging facilities
45. Indoor retail sales activities – accessory to indoor storage and wholesaling
46. Indoor sales and service
47. Indoor storage and warehousing
48. Laundry and dry-cleaning services
49. Long-term outdoor display and sales
50. Maintenance service
51. Manufactured and modular homes sales

52. Medical, optical, and dental clinics
53. Motels and tourist courts
54. Nursing homes and assisted living facilities
55. Office supply stores
56. Outdoor recreation – passive
57. Outdoor storage yards or wholesaling
58. Parking lots (5 or more stalls)
59. Personal or professional sales and service establishments
60. Pet shops
61. Pharmaceutical sales
62. Photography services
63. Plumbing services
64. Print shops
65. Private schools
66. Professional offices
67. Publishing offices
68. Radio and television stations and/or towers
69. Recording studios
70. Refreshment stands.
71. Rental services
72. Residential quarters for the owner, commercial tenant, employee, or caretaker if located in the same building as the business.
73. Restaurants and supper clubs
74. Retail businesses
75. Roadside stands for farm produce
76. Sale of bait for fishing
77. Sandwich and burger establishments (fast food)
78. Septic system services
79. Single-family residence (maximum of one unit) as an accessory use to a business use
80. Sporting goods stores
81. Tattoo parlors
82. Tobacco stores
83. Truck farming
84. Variety stores
85. Veterinary clinics
86. Wholesaling establishments
87. Wineries and meaderies
88. Prior legal nonconforming uses that were in existence as of December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
89. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.

90. A use not specifically mentioned in subsection (5) A. may be allowed as a permitted use if the Planning & Zoning Commission and Town Board determine that the proposed use is consistent with the intent and types of uses listed in said subsection.
91. Solar energy systems, small scale.

B. Conditional Uses

1. Airports (private)
2. Amusement parks
3. Animal boarding and breeding (includes licensed dog kennels)
4. Bars, taverns, and cocktail lounges
5. Club houses and lodges (both private and quasi-public)
6. Commercial recreation facilities, such as arcades, archery ranges, bowling alleys, dance halls, driving ranges, gymnasiums, fitness centers, miniature golf, physical, culture, pool and billiard halls, and skating rinks.
7. Drive-in theaters
8. Fairgrounds
9. Fuel service stations and battery charging stations
10. Golf courses and accessory uses
11. Group Day care centers
12. Hospitals
13. Indoor commercial entertainment and service
14. Light industrial (See Section 7.13 for definition)
15. Light industrial activities – accessory to indoor sales and service
16. Liquor stores
17. Night clubs
18. Outdoor public recreation – active
19. Pawn shops
20. Public assembly uses, such as amphitheaters, arenas, fieldhouses, gymnasiums, natatoriums, auditoriums, exhibit halls, music halls, performance stages, motion picture theaters/cinemas, and stadiums.
21. Public passenger transportation depots, such as heliports, bus, and rail depots – except airports, airstrips, and landing fields
22. Racetracks and exhibition areas for motorized and non-motorized vehicles and equipment
23. Recreational, religious, and youth camps
24. Resort establishment
25. Skiing/sledding/snowboarding hills and lodges
26. Solar energy systems, mid-scale.
27. Transportation, utility, communication, or other uses that are not required under state or federal law.
28. Wind energy systems when the primary intent is for export and the sale of energy.
29. A use not specifically mentioned in subsection (5) B. may be allowed as a conditional use if the Planning & Zoning Commission and Town Board determine that the proposed use is consistent with the intent and types of uses listed in said subsection.

C.Area, Height, and Yard Requirements: See Section 7.2.8.

(6) IM - Industrial and Manufacturing District

The purpose of this district shall be to promote an area for manufacturing and industrial operations.

A. Permitted Uses

1. Crop farming, forestry, and open space
2. Prior legal nonconforming uses that were in existence as of December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
3. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
4. Solar energy systems, small scale.

B. Conditional Uses

1. Adult-entertainment establishments
2. Any similar conditional uses subject to the approval of the Town Board
3. Automobile repair facilities
4. Blacksmithing, welding and repairs
5. Boat storage, sale of boats, motors, fuel, marine supplies, servicing of boats and motors and the manufacture of boats or motors
6. Breweries, wineries, and distilleries
7. Contractor's shop and/or office
8. Crematories
9. Energy refineries
10. Farm machinery plants
11. Farm machinery sales, service, and storage facilities
12. Farms operated for the disposal of sewage, rubbish, or any waste material.
13. Feed mills, granaries, and elevators
14. Food and meat lockers
15. Food production facilities
16. Food storage warehouses
17. Freight yards and trucking terminals
18. Fuel stations
19. Governmental uses such as but not limited to, police or fire stations, or buildings used for the storage or repair of road maintenance equipment.
20. Heavy industrial (See Section 7.13 for definition)
21. Incinerators
22. Indoor sales and service – accessory to light industrial
23. Light industrial (See Section 13 Definition).

24. Manufacturing establishments engaged in the fabrication, processing, assembly, or packaging of a product which is not specified as a conditional use in the Industrial District
25. Manufacturing, processing, packaging or storage of chemicals, explosives, batteries, asphalt, cement, flammables, paint, poison, rubber, dyes, plastics, and radioactive materials.
26. Non-metallic mining (Must comply with Section 7.4.5)
27. Nurseries, greenhouses, and landscaping businesses
28. One single-family residence per site for the owner or proprietor, caretaker, and their family, which is incidental to a permitted or conditional use.
29. Parking lots
30. Portable sawmill and debarking operations
31. Printing and publishing establishments
32. Private airport
33. Processing and packaging of food products
34. Processing and packaging of recyclable materials
35. Recycling collection point
36. Retail sale of products if accessory to and in the same structure as the principal use
37. Salvage & junk yards (must comply with Section 7.4.8)
38. Sanitary landfill operations. (See Section 7.4.7)
39. Self-service storage facility
40. Sewage treatment facilities
41. Solar energy systems, mid-scale.
42. Solid or hazardous waste facility
43. Storage for wholesaling indoor and outdoor
44. Transportation, utility, communication, or other uses that is not required under state or federal law.
45. Warehousing, except the storage of chemicals, explosives, flammables, and radioactive materials
46. Wholesale establishments
47. Wind energy systems when the primary intent is for export and the sale of energy

C. Area, Height, and Yard Requirements: See Section 7.2.8.

(7) PI – Public & Institutional District

The primary purpose of this district is to provide for the needs of the public and institutional uses and structures.

A. Permitted Uses

1. Community centers
2. Crop farming, forestry, and open space
3. Fire & police stations
4. Hiking trails, bike paths and walkways
5. Government offices
6. Libraries

7. Piers and docks
8. Prior legal non-conforming uses that were in existence as of December 2, 2015, subject to the nonconforming use provisions of this Ordinance
9. Publicly owned and operated schools, parks, picnic areas, and similar uses
10. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
11. Solar energy systems, small scale.

B. Conditional Uses

1. Cemeteries
2. Churches, synagogues, and temples
3. College dormitories
4. Correctional and rehabilitation facilities exempt from the provisions of State Statutes 301.16(3)
5. Flowage and wildlife ponds
6. Museums
7. Nursery schools
8. Orphanages
9. Private elementary and high schools
10. Rectories, convents, and monasteries
11. Transportation, utility, communication, or other uses (including buildings) that is not required under state or federal law.
12. Universities and colleges
13. Solar energy systems, mid-scale.

C. Area, Height, and Yard Requirements (See Section 7.2.8).

(8) REC - Recreational District

A. Permitted Uses

1. Boat launching areas.
2. Boat liveries, including boat storage, sale of boats, motors, fuel, marine supplies and the servicing of boats and motor but not the manufacture of boats or motors.
3. Forest and indigenous game reserves
4. Picnic grounds
5. Prior legal nonconforming uses that were in existence as of December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
6. Public and private parks
7. Sale of bait and sporting goods and supplies, excluding camping trailers and tents

8. (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
9. Roadside stands for farm produce
10. Solar energy systems, small scale.

B. Conditional Uses

1. Bridle paths and hiking trails
2. Campgrounds and recreational camps (Also see Section 7.4.2)
3. Dog parks
4. Golf courses and country clubs
5. Hunting and sportsmen club facilities
6. Mobile home parks and trailer courts (also see Section 7.4.3)
7. Racetracks and exhibition areas for motorized and non-motorized vehicles and equipment.
8. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business, single family residences in conjunction and accessory to another permitted use.
9. Riding academies
10. Riding stables
11. Skeet, trap and shooting ranges.
12. Transportation, utility, communication, or other uses that is not required under state or federal law.

C. Area, Height, and Yard Requirements. See Section 7.2.8

(9) CMU – Concentrated Mixed Use District

Because of small lot configurations and unique buildings, this district provides for a wide range of mixed uses within or accessory to existing residential homes. The intent of this district is to create compatible and creative mixed land use arrangements that are unique in comparison to other areas of the town.

A. Permitted Uses

1. Any permitted uses within the B-Business District
2. Bed and breakfast establishments
3. Crop farming, forestry, and open space
4. Family day care out of a residential home.
5. Home occupations – minor (See Section 4.4)
6. Prior legal nonconforming uses that were in existence as December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
7. Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory structures may be used as dwelling units. Includes manufactured & modular homes as defined in Section 13.

8. Two Family residential
9. (Upon notification of the Town Board), transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
10. Solar energy systems, small scale.

B. Conditional Uses

1. Antique dealers and sales
2. Any similar use subject to the approval of the Town Board
3. Appliance stores
4. Athletic clubs and gyms
5. Automobile and truck retail services
6. Automobile repair services
7. Automobile sales
8. Automobile laundries (car washes)
9. Arts, crafts & antique dealers, and sales
10. Bakeries
11. Barber & beauty shops
12. Bars, taverns, and cocktail lounges
13. Bed and breakfast establishments
14. Beverage stores
15. Breweries
16. Broadcasting studios
17. Building supplies sales
18. Book and music stores
19. Candy, nut, and confectionery sales
20. Carpet and tile sales
21. Caterers
22. Cellular phone sales and service
23. Christmas tree and wreath sales
24. Club houses and lodges
25. Coffee shops and snack bars
26. Commercial greenhouse, landscape, and nursery business
27. Commercial recreation facilities such as arcades, archery ranges, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls and skating rinks.
28. Contractor storage yards and/or offices
29. Dancing schools
30. Electrician services
31. Farm equipment sales and service
32. Financial institutions
33. Florist
34. Food and Meat Lockers
35. Furniture stores & upholstery shops
36. Gift, novelty, and souvenir sales
37. Governmental, institutional, religious, or nonprofit community uses.

38. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.
39. Grocery stores
40. Group day care center
41. Hardware stores
42. Heating services
43. Home occupation – major (See Section 7.4.4)
44. Ice cream and soda sales stands.
45. In vehicle sales and service
46. Indoor commercial entertainment and service
47. Indoor lodging facility
48. Indoor retail sales activity - accessory to indoor storage and wholesaling
49. Indoor sales and service
50. Indoor storage and warehousing
51. Laundry and dry-cleaning services
52. Liquor stores
53. Long term outdoor display and sales
54. Maintenance service
55. Multi-family residential
56. Nurseries and greenhouses (with or without on-site sales)
57. Office supply stores
58. Outdoor public recreation - active
59. Outdoor public recreation - passive
60. Parking lots
61. Pawn shops
62. Personal or professional sales and service establishments
63. Pet shops
64. Photography services
65. Plumbing & septic services
66. Print shops
67. Professional offices
68. Publishing offices
69. Quasi-public clubs and lodges
70. Refreshment stands.
71. Rental services
72. Residential dwelling units not to exceed one per principal use when accessory to the principal structure.
73. Residential quarters for the owner, commercial tenant, employee, or caretaker located in the same building as the business.
74. Restaurants
75. Retail businesses, professional offices, personal and business sales and or service establishments
76. Roadside stands for farm produce
77. Sale of bait for fishing and sporting goods and supplies
78. Single-Family residence accessory to a business use
79. Sporting goods stores
80. Supper clubs

81. Tattoo parlors
82. Transportation, utility, communication, or other uses that is not required under state or federal law.
83. Tobacco stores
84. Taverns
85. Variety stores
86. Wineries
87. Event Venue

C. Area, Height, and Yard Requirements: See Section 7.2.8.

(9) LCD Land Conservation District

A. Permitted Uses

- 1 Agricultural uses. Within the context of agricultural uses, animal units mean domestic animals traditionally used in this state in the production of food, fiber, or other animal products. Includes cattle, swine, poultry, sheep, goats, equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids, or mink. Beekeeping, grazing, field crops, forestry, green houses (home use), orchards, tree & shrub nurseries, mushrooms, wild crop harvesting and other horticultural activities that provide on-site sales of raw products. Animals shall not exceed a density of more than two animal units per acre. Animal units shall be defined per Section 7.14.4 or ATCP 51.
- 2 Forestry and open space
- 3 Home occupations – minor (See Section 4.4)
- 4 Prior legal nonconforming uses that were in existence as December 2, 2015, subject to the nonconforming use provisions of this Ordinance.
- 5 Single family dwellings and accessory structures, including private garages and buildings clearly incidental to the residential use of the property, provided that no such accessory buildings may be used as dwelling units.
- 6 Forest and indigenous game reserves
- 7 (Upon notification of the Town Board), Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.
- 8 Solar energy systems, small-scale.

B. Conditional Uses

- 1 Home occupations – major (See Section 4.4)
- 2 Transportation, utility, communication, or other uses that is not required under state or federal law.
- 3 Public and private parks.

2. Area, Height, and Yard Requirements See Section 7.2.8

3. Subdivision Restrictions

1. All parcels shall be and remain a single parcel and shall not be subject to further subdivision.

(10) BRIP - Business, Research, and Light Industrial Park District

The purpose of this district is to provide for the orderly and attractive grouping of Low-impact business, office, research, and light industrial uses in an aesthetically pleasing campus-like setting that is developed under a unified plan. The district is further intended to promote properly arranged utility, stormwater, roadway, access, parking, and loading facilities that are subordinate to the principal buildings. Sites within this district will minimize adverse effects upon neighboring properties.

A. Composition and Ownership

1. A Business, Research, and Light Industrial Park need not contain all three types of uses to qualify under this district.
2. Until such time as the Unified Plan described in subsection B has been approved by the Town, the property area defined as the park shall be owned by one entity. Following approval, the interior of the park may be subdivided into lots for individual building sites, outlots for open space areas, and rights-of-way for infrastructure. Lots and outlots may then be sold, leased, or retained under the existing ownership. Regardless of ownership status all lots shall continue to be subject to the Unified Plan and the standards of this Ordinance and any other applicable standards, permits, or regulations.

B. Unified Plan

A professionally prepared plan that addresses the relevant items in subsections C through J to achieve a development that has the appearance of a single, planned, integrated unit shall be submitted to the Town Planning & Zoning Commission and Town Board for review and approval via majority votes of both bodies prior to any rezoning or issuance of Town permits.

1. Ten (10) color copies of sufficient size to allow for adequate review shall be submitted to the Town Clerk no less than thirty (30) days prior to the Planning & Zoning Commission meeting at which the Plan is expected to be discussed.
2. Unified Plans shall include:
 - a. Layout of lots, streets, infrastructure, and open space areas.
 - b. Location of major natural, cultural, vegetative, drainage, and landscaping features.
 - c. Landscaping overview, and open space management plan for large open space areas.
 - d. Realistic depictions of signage, lighting, gateways/park entryways, typical building styles, and typical landscaping.
 - e. Any additional information requested by the Town to ensure the park will be developed in a unified manner with quality design and materials.

3. Changes to an approved Unified Plan may not be implemented until a new approval by majority votes of the Planning & Zoning Commission and Town Board.

C. Permitted Uses

1. Broadcasting and recording studios.
2. Crop farming, forestry, and open space
3. Data analysis, conversion, and management
4. Design and marketing studios
5. Hiking trails, bike paths, and walkways
6. Parking facilities, subject to subsection F.4.
7. Professional offices
8. (Upon notification of the Town Board), transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.

D. Conditional Uses

1. Business incubators
2. Conference centers/indoor event spaces
3. E-commerce
4. Indoor sales and service
5. Light industrial (See Section 7.13 for definition.)
6. Light industrial activity accessory to indoor sales and service
7. Low-intensity manufacturing
8. Media creation
9. Outside storage of materials integral to the conduct of business by a tenant of the park
 - a. Outdoor storage areas shall be screened from view by landscaping or berms, or walls or fencing of a quality that is consistent with the nearest building.
10. Product testing and demonstration facilities
11. Research laboratories
12. Restaurants and cafes
13. Specialty food and drink production and processing

E. Other Uses

Uses not specifically mentioned in subsections C or D may be allowed as if the Town Planning & Zoning Commission and Town Board make the following findings:

1. The use is consistent with the intent and types of uses listed in subsections C or D;
2. The use is safe, clean, and would not cause any hardship to neighboring properties from noise, pollution, vibration, or other nuisance or hazard. This clause has been added to allow flexibility for Town officials to consider potential uses that may not have been anticipated at the time of the adoption of this district.

F. Design Standards

The following standards apply to development in this zoning district. In addition, development in this zoning district must follow any other applicable standards found elsewhere in this Ordinance related to design issues. Where a conflict exists, this section should apply.

1. Buildings and Structures

- a. Buildings shall be constructed of quality, durable, attractive materials.
- b. Accessory structures shall be of comparable design and building materials as the principal building.
- c. Entrances to main buildings shall include one or more of the following: canopy, overhang, or arch above the entrance; recess or projection in the building facade surrounding the entrances; or peaked roof or raised parapet structure over the door.
- d. Walls, berms, and hedges are preferred to fences, but where necessary fences shall be as visually unobtrusive as possible.

2. Landscaping

- a. The park requires a unified landscape design that ties together all building sites, parking areas, gateways, open spaces, etc.
- b. Street trees are encouraged along internal streets within the park.
 - (1) A variety of species should be chosen to protect against large losses due to insects and diseases that target a particular species.
 - (2) Informal arrangements are encouraged to avoid the urban appearance that regular spacing may invoke.
 - (3) Street trees shall be located so as not to interfere with the installation and maintenance of utilities and
 - (4) paths, trails, or sidewalks that may parallel the street.
- c. Sustainable vegetation, materials, and maintenance processes are encouraged.

3. Open Spaces

- a. Significant natural features shall generally be maintained in their natural condition but may be modified to improve their appearance or restore their overall condition and natural processes. Modifications may include:
 - (1) Woodland management;
 - (2) Reforestation;
 - (3) Meadow management;
 - (4) Wetlands management;
 - (5) Stream bank protection;
 - (6) Removal of invasive species.
- b. Wetlands, floodplains, unique wildlife habitat areas, and steep slopes over twenty percent (20%), shall be contained in open space areas.
- c. An open space management plan shall be created for identifying operations needed for maintaining the stability of the resources, including mowing schedules, invasive species and weed control, planting schedules, and clearing and cleanup.

4. Parking and Loading Areas
 - a. No parking shall be allowed along roadways or driveways except for temporary purposes such as deliveries, utility work, and construction. All vehicles shall otherwise park in surface lots or facilities (e.g., ramps, garages). Permanent loading areas shall be located to minimize visibility from roadways and other lots.
 - b. All parking areas shall be surfaced with an asphaltic or Portland cement pavement so as to provide a durable and dust-free surface and shall be graded and drained in accordance with the approved stormwater management plan. An exception will be allowed for the use of commercial/industrial grade permeable pavers, gravel paving systems, or similar alternatives where appropriate.
 - c. All parking areas that serve one hundred (100) vehicles or more shall include landscaped median areas to avoid the appearance of vast areas of continuous pavement.
 - d. Parking and loading areas shall not be used for the long-term storage of motor vehicles, recreational vehicles, boats, commercial or industrial inventory, or equipment.
5. Lighting
 - a. Shielded luminaries or luminaries with cutoff optics, and careful fixture placement, shall be required.
 - b. Exterior lighting fixtures shall be orientated so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. No lighting sources shall be visible from outside its premises. Light rays shall not be directed into roadways or upward into the atmosphere. No horizontal throw via outward projecting lenses or optics shall be permitted.
 - c. Flashing, flickering, or other distracting lighting is prohibited unless required by law.
6. Trash Collection Areas
 - a. Dumpsters and similar refuse disposal receptacles shall be located behind the front building face line, screened on three (3) sides with landscaping, berms, or walls or fencing of a quality that is consistent with the nearest building.
7. Signs
See Section 7.7.

G. Performance Standards

See Section 7.12.

H. Other Applicable Standards, Permits, and Regulations

Any development in this district is subject to erosion control, stormwater management, shoreland zoning, and any other applicable standards, permits, and regulations.

I. Impervious Surfaces and Open Space

To promote a park-like appearance, the total impervious surfaces of buildings, accessory structures, surface parking, loading, and driveways shall not exceed fifty-five percent (55%) of the entire park area.

J. Area, Height, and Yard Requirements

Minimum Park Size: 10 acres

Minimum Park Width: 500 feet

Minimum Lot Size: ½ acre

Minimum Lot Width: 100 feet

Maximum Building Height: 60 feet

Minimum Street Setback: 30 feet

Minimum Rear Setback: 25 feet

Minimum Side Setback: 25 feet

SECTION 7.4 CONDITIONAL USES

7.4.1 Permit

The Town Board may authorize the Zoning Administrator to issue a Conditional Use Permit for conditional uses after review by the Plan Commission, provided that such conditional uses or structures are in accordance with the purpose and intent of this Ordinance, and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the area.

(1) Approval Required

Any use listed as a conditional use in this Ordinance shall be permitted only upon successful completion of the following:

- A. Application to the Town Clerk or Zoning Administrator.
- B. Public Hearing, Review and Recommendation by the Plan Commission.
- C. Approval of the Town Board
- D. Issuance of a Conditional Use Permit.

(2) Application

Application for Conditional Use Permits shall be submitted in writing (10 copies of the application and attachments) to the Town Clerk or Zoning Administrator on forms provided by the Town and shall include substantially the same information as required under Section 7.2.5(3). The cost of the application for a Conditional Use Permit shall be determined by the Town's Fee Schedule.

(3) Public Hearing

- A. Before action is taken upon an application for a Conditional Use Permit, the Plan Commission shall hold a public hearing. A Class 2 notice shall be given as provided in Wis. Stat. Ch. 985. The Plan Commission shall report its recommendation in writing and the grounds for its recommendation.
- B. As a matter of practice, an earnest effort will be made to send by regular mail a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Sheboygan County Register of Deeds Office) of all lands adjacent any part of the parcel or parcels included in the Conditional Use Permit application. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and Town Board.

(4) Review

In all cases of proposed establishment of a conditional use specified in this Ordinance, the Plan Commission shall review the site, existing and proposed structures, intended use of structure, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems, and other aspects of the proposed use.

(5) Existing Conditional Uses

Any conditional use existing, other than an existing nonfarm residence in the FP Farmland Preservation Zoning District, which is classified as a Permitted Use if

constructed prior to January 1, 2014, shall be deemed to have been granted approval as a conditional use under this Ordinance, subject to maintaining the character and extent of such use or structure existing on that date of issuance. Any change in such use shall require approval according to the terms of this Ordinance.

(6) Conditions and Guarantees

- A. Prior to granting a permit for a conditional use, the Town Board, after review by the Plan Commission, may stipulate such conditions and restriction upon the establishment, maintenance, and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in (7) Standards below. Establishment, maintenance and operation shall be construed to include, but shall not be limited to such factors as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operation control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Town Board shall find that conditions applying to these factors are necessary to fulfill the purpose and intent of this Ordinance.
- B. In all cases in which a permit for conditional use is granted, the Town Board, after review by the Plan Commission, shall require such evidence and guarantees as it may deem necessary to fulfill the purpose and intent of this Ordinance and as proof that the conditions stipulated in connection therewith are being and will be complied with.
- C. The Town Board, after review by the Plan Commission, may include in the conditions a requirement that the conditional use be reviewed within a specified period of time.
- D. The Town Board has the dual responsibility of not creating an undue burden on the applicant and ensuring the applicant is responsible for any future impact on adjacent property owners.

(7) Standards

No permit for a conditional use shall be granted unless the Town Board, after review by the Plan Commission, shall find that the following standards are met:

- A. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- B. That the uses, values, and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner, substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use.
- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. That adequate utility, access roads, drainage, and other necessary site improvements have been or are being provided.
- E. That adequate measure have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards in the public roads.

- (8) Compliance with Other Provisions
Conditional uses shall comply with all other provisions of this Ordinance such as lot width and area, yards, height, parking and loading.
- (9) Authorization of Permit
The Town Board may authorize the Zoning Administrator to issue a Conditional Use Permit for conditional use specified in this Ordinance after Plan Commission review provided such uses are in accordance with the purpose and intent of this Ordinance. Conditional uses are granted to the property owner. **Any change in ownership shall require the issuance of another permit if the activity wishes to continue.** A Conditional Use Permit can also be approved for a specified period of time.
- (10) Resubmittal of Application
No application for a conditional use which has been denied wholly or in part by the Town Board shall be resubmitted for a period of one year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable condition is included in the resubmitted application.
- (11) Violation and Revocation
A violation of any permit restriction as set forth herein and determined by the Town Board shall be deemed a revocation of said permit and said use shall be removed immediately. Nothing in this section shall be deemed to give the owner, applicant, or occupant of said lands a vested interest in the use established in said permit. In addition, the Town Board, after review by the Plan Commission, shall revoke a Conditional Use Permit if at any time there has been a failure to comply with the conditions imposed or if there has been a substantial change in the development, unless such change has been approved by the Town Board.
- (12) Expiration
A Conditional Use Permit shall be deemed to authorize only one particular use and shall expire if the authorized use ceases for more than twelve (12) consecutive months for any reason. Any permit issued shall expire if action has not been taken to establish the conditional use within six (6) months from the date the Town Board approved the permit. The Town Board, after review by the Plan Commission, may grant a time extension if requested by the applicant. **When a parcel with a Conditional Use Permit has transferred ownership, the Conditional Use Permit is no longer valid.**

7.4.2 Recreational Vehicles and Campgrounds

Prior to granting a Conditional Use Permit for the development or improvement of a campground in the REC district, the Town Board, after review by the Plan Commission, shall make the following determinations:

- (1) The maximum number of campsites shall be 15 per acre.
- (2) Minimum dimensions of a campsite shall be 25 feet wide by 40 feet long.
- (3) Each campsite must be separated from other campsites by a yard not less than 15 feet.
- (4) There shall be a minimum of 1 automobile parking space for each campsite.
- (5) In addition to the requirements of Section 7.5 of this Ordinance, there shall be a minimum yard setback of 40 feet from all exterior lot lines of the campground.

- (6) It shall conform to the requirement of the Wisconsin Administrative Code which shall apply until amended and then apply as amended.

7.4.3 Mobile Home Parks and Trailer Courts

Mobile home parks are permitted as a conditional use in the REC-Recreation District. (Also see Section 7.2.9 (7). In granting a permit for the development or improvement of a mobile home park, the Town Board, after review by the Plan Commission, shall make the following determinations:

- (1) The minimum size of mobile home parks and trailer courts shall be ten (10) acres.
- (2) The maximum number of mobile homes shall be ten (10) per acre.
- (3) Minimum dimensions of a mobile home site shall be fifty (50) feet wide by 85 feet long.
- (4) All drives, parking areas and walkways shall be hard surfaced.
- (5) In addition to the requirements of Section 7.5 of this Ordinance, there shall be a minimum yard setback of forty (40) feet at all exterior lot lines of the mobile home park.
- (6) It shall conform to the requirements of the Wisconsin Administrative Code which shall apply until amended and then apply as amended.
- (7) No mobile home shall be rented for a period of less than thirty (30) days.
- (8) Each mobile home site shall be separated from other mobile home spaces by a yard not less than fifteen (15) feet wide.
- (9) There shall be two (2) surfaced automobile parking spaces for each mobile home.
- (10) Unless adequately screened by existing vegetative cover, it shall be screened by a temporary planting of fast growing material capable of reaching a height of 15 feet or more such as Hybrid Poplar, permanent evergreen plantings such as White or Norway Pine, the individual trees to be such a number and so arranged that within 10 years they will have formed a screen equivalent to opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.

7.4.4 Home Occupation – Major and Minor

- (1) Standards for a Home Occupation – Major (Also see Section 7.13 for Definition)
A Home Occupation – Major is a home-based business that is accessory to a principal residential use. The regulations for major home occupations are less flexible than for minor home occupations; as such, major home occupations require the issuance of a Conditional Use Permit. Includes economic activities performed within any dwelling or residential accessory structure that comply with specified requirements listed below. Examples include, but are not limited to, personal and professional services, handicrafts, small beauty salons, and small machine repair. This use shall meet the following performance standards:
 - A. When the use is conducted entirely within the confines of the principal structure, it shall occupy no more than 50 percent of the gross floor area on the floor(s) where the use takes place.
 - B. The use shall be clearly incidental and secondary to the use of the property for residential purposes, and the appearance of the structures shall not be altered or the occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, or vibrations that carry beyond the premises.

- C. No more than four persons in addition to those members of the family that are permanent residents of the premises shall be employed by the home occupation.
- D. The business of selling stocks of merchandise, supplies, or products other than those produced by the major home occupation to fill orders made by customers shall not be permitted as a major home occupation. That is, the direct retail sale of products out of the residence within which the major home occupation is located is not allowed, but a person may pick up an order they have placed. Wholesale or retail sales from within the residence or accessory structure as the primary activity or function of the major home occupation is prohibited, except for sales conducted entirely via the mail, telephone, or the internet.
- E. The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling is permitted in an enclosed accessory building, or in a yard of the subject property provided the yard area used for such display, storage, or parking is completely screened from view from all public streets and adjacent property through the use of landscaping materials or a combination of landscaping materials and a fence. However, for property zoned R Residential, display, storage, or parking is limited to a side or rear yard, provided the yard area used for such display, storage, or parking is completely screened from view from all public streets and adjacent property through the use of landscaping materials or a combination of landscaping materials and a fence. No storage, display or parking of materials, goods, supplies, or equipment shall be allowed within a minimum required yard.
- F. There shall be sufficient off-street parking to compensate for additional parking generated by the home occupation, and employees.
- G. Any home occupation involving the on-site sale, resale, painting, body repair, salvage or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.
- H. Repair and maintenance of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles, not including body repair or painting beyond “touchups”, shall be permitted. Size of the operation shall be limited to up to three vehicle repair bays and no more than 10 vehicles total onsite at any time, not including property owner vehicles. No unlicensed vehicles shall be permitted at any time.
- I. Conditional Use Permits granted for major home occupations shall be assigned only to a designated person who resides at the residential address. Such permits do not run with the land, are not transferable from person to person, or from address to address.
- J. As part of the process to grant the Conditional Use Permit for a major home occupation, the Plan Commission may restrict the number and types of machinery and equipment used on the property, limit hours of operation, or attach other conditions to the approval to meet the standards for granting a Conditional Use Permit in this Section 7.4.

(2) Standards for a Home Occupation – Minor (Also see Section 7.13 for Definition)

A Home Occupation – Minor is a small home-based family or professional business that is accessory to a principal residential use. Includes economic activities performed within any dwelling that comply with the specified requirements listed below. Examples include, but are not limited to, personal and professional services, home offices,

handicrafts, and small machine repair. This use shall meet the following performance standards:

- A. The use shall be conducted entirely within the confines of the principal residential structure or accessory residential structure.
- B. The use shall occupy no more than 25 percent of the gross floor area on the floor(s) where the use takes place.
- C. The use shall be clearly incidental and secondary to the use of the premises for residential purposes, and the appearance of the structure(s) shall not be altered or the occupation within the structures be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, odors, dust or vibrations that carry beyond the premises.
- D. The business of selling stocks of merchandise, supplies, or products other than those produced by the minor home occupation to fill orders made by customers shall not be permitted as a minor home occupation. That is, the direct retail sale of products out of the residence within which the minor home occupation is located is not allowed, but a person may pick up an order they have placed. Wholesale or retail sales from within the residence or accessory structure as the primary activity or function of the minor home occupation is prohibited, except for sales conducted entirely via the mail, telephone, or the internet.
- E. The display, storage, or parking of materials, goods, supplies, or equipment outside of the dwelling or an accessory building is prohibited, except for truck equipment.
- F. Any minor home occupation involving the on-site sale, resale, salvage or wrecking of automobiles, trucks, boats, trailers, recreational vehicles, or other motorized vehicles shall be prohibited.

7.4.5 Non-Metallic Mining

Non-Metallic Mining is a conditional use in the IM and FP Districts only.

(1) Intent

The intent 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; 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. These regulations are to be used in concert with the Sheboygan County Non-Metallic Mining Reclamation Ordinance.

(2) Application

- A. In addition to the submittal information required under Section 7.4.1(2), the application for Conditional Use Permit shall include the following information:
 1. A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and

archaeological features on and adjacent to the site; where extracted materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; whether excavation will occur below the water table and, if so, how ground water quality will be protected; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all county, state, and federal regulations, including a listing of all applicable regulations.

2. A site/operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all residences and private and municipal wells within 1,320 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms and landscaping; and proposed temporary and permanent structures, including scales and offices.
 3. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable state and county requirements.
 4. A reclamation plan prepared in accordance with the Wisconsin Administrative Code and the Sheboygan County Non-metallic Mining Reclamation Ordinance.
 5. A written description as to the potential impacts to all property owners within 1320 feet of all proposed property boundaries.
 6. Documentation that there are no existing residences within 1320 feet of all proposed property boundaries.
- B. A landscaped buffer yard shall be required in the yard where the use abuts a residential use or a residential zoning district.
 - C. The Town may place limits on the amount of time the non-metallic mineral extraction use shall remain in operation.
 - D. The nearest edge of all buildings, structures, and surface activity areas, including pit edges, shall be located a minimum of 200 feet from all dwellings on adjacent properties, and no less than 10 feet from any lot line.
 - E. To prevent tracking of mud onto public roads, access driveways shall be paved within 100 feet of public roads, unless the adjacent road is unpaved.
 - F. All public roads shall be kept free of all mud, debris, and dust by sweeping or other means as necessary, or as requested by the Town of Herman.
 - G. Access to the site shall only be through points designated as entrances on the site/operations plan; such access points shall be secured when the site is not in operation.

- H. Provisions for the upgrade, repair, and maintenance of town and county roads shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance. If any town or county road is damaged or destroyed as a result of owners operations, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operations.
- I. Spraying of the site and driveways shall be conducted to control dust, except when the temperature is below freezing. The Town may request that water be applied in and around the excavation pit to further reduce dust.
- J. On-site bulk fuel storage areas and appropriate places for fueling of equipment (e.g., above the water table) shall be located to minimize the potential for groundwater contamination and in accordance with the Wisconsin Administrative Code and Wisconsin Statutes.
- K. Hours or days of operation may be limited as deemed appropriate by the Town.
- L. Expectations for any blasting, drilling, screening, and asphalt batching shall be clearly understood, and separate acceptable hours for these activities may be established. Blasting is also regulated under Wisconsin Statutes and Wisconsin Administrative Code. The Conditional Use Permit may specifically restrict such activities from occurring if the Conditional Use Permit standards cannot be met.
- M. If blasting or drilling is requested, additional standards or conditions may be applied with relation to frequency, noise and vibration levels, notice to neighbors, pre-inspection of neighboring basements and wells, and claims procedures in accordance with the Wisconsin Administrative Code.
- N. All trucks, excavation, and processing equipment shall have exhaust systems that meet or exceed current industry standards to ensure that noise levels are kept at or below allowable limits. The mine operator shall demonstrate that the level of noise generated by the facility or equipment does not exceed 65 decibels at the property line.
- O. Unless the extraction site is inaccessible, the area of extraction shall be completely enclosed by a safety fence or maintained at a slope not to exceed 3:1.
- P. The applicant shall furnish a certificate of insurance before operations commence and such certificate shall remain in good standing through the entire Conditional Use Permit period.
- Q. Approval shall be subject to amendment or revocation if non-compliance with approved plans, this section, or approval conditions is identified.
- R. Approval shall be subject to periodic review of the operation to ensure compliance with the Conditional Use Permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
- S. The Conditional Use Permit shall expire 5 years from the date of approval except where the Town, in its conditional use approval, grants otherwise. In order to continue operation beyond the specified time frame, the applicant must apply for an extension to the original Conditional Use Permit which shall follow the normal Conditional Use Permit process every 5 years or the timeframe granted by the Town of Herman.

7.4.6 Reserved

7.4.7 Landfills and Solid Waste Disposal Operations

Landfills and Solid Waste Deposal Operations are permitted as a conditional use in the Industrial and Manufacturing (IM) District.

- (1) The applicant shall submit the following information, in writing to the Plan Commission for review:
 - A. Location and description of the premises to be licensed.
 - B. Nature of the operation to be conducted.
 - C. Type of solid waste material to be disposed of and the detailed method of disposal of the material.
 - D. Construction details of any building to be used in connection with the operation.
 - E. Description of all land uses within one thousand (1,000) feet of the premises.
 - F. Location and description of all wetlands and wells within 1,000 feet of the premises.
 - G. Name and address of the owner and of all persons who will directly participate in the management of the site.
 - H. Any additional information deemed necessary by the Zoning Administrator, Plan Commission or Town Board for a full evaluation of the proposed operation.
- (2) Requirements: All solid waste disposal operations shall in all respects comply with the solid waste disposal standards of the Department of Natural Resources (DNR), and the standards of any other state agency having control over the type of operation involved.
- (3) Location: No solid waste disposal operations shall be located within five hundred (500) feet of any residence, other than the owner of the premises or, any residential, business, or community district: three hundred (300) feet from a lake, river, stream, or wetland; or on hundred fifty (150) feet away from any highway right-of-way.

7.4.8 Salvage and Junk Yards

(See Section 7.13 for definition.) Salvage and junk yards are permitted as a conditional use in the IM zoning district. No salvage or junk yards shall be permitted in the Town of Herman unless they also comply with the following requirements within the IM district:

- (1) No salvage or junk materials shall be located within 1,000 feet of the centerline of all Federal, State, or County Trunk Highways or the boundary of a public park or within 600 feet of the centerline of all Town roads unless written permission is first obtained from the Town Board after review by the Plan Commission.
- (2) The Town Board, after review by the Plan Commission, shall not grant written permission to a salvage or junk yard unless said junkyard complies with the provisions of sub. (3) and (4) below and does not present a nuisance to public health.
- (3) All junk and salvage materials shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the highway, road, or park.

- (4) A fifteen (15) foot fire lane shall be maintained as follows: No junk or salvage materials shall be located closer than fifteen (15) feet to any object screening the salvage or junk yard: or where no such screen exists, no junk or salvage material shall be located closer than fifteen (15) feet from the owner's home.

7.4.9 Failure to Act

If an application for a proposed Conditional Use is not acted upon finally by the Town Board within six (6) months of the date upon which the Zoning Administrator determines the application complete, it shall be deemed to have been approved.

SECTION 7.5 HIGHWAY & ROAD SETBACKS, ACCESS, LOADING AND PARKING

7.5.1 Setback Lines Established

- (1) In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be, and they are hereby established in the Town of Herman, Sheboygan County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.
- (2) If a highway in the future is located on a city or village boundary, this section is not intended to be effective on the side within the city or village; nor on the side within another county where the highway is located on a county boundary.

7.5.2 Definitions

As used in this section and for its purposes, the following words mean:

- (1) Center Line. A line connecting points on highways from which setback lines shall be measured, at any point on the highway.
- (2) Setback Lines. Lines established along highways at specified distances from the center line, which prohibited buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. Within the setback line means between the setback line and the highway.
- (3) To Place. The putting of a building or structure in a particular situation, whether by original construction or erection or by moving a building or structure to the particular site.
- (4) Traffic Lane. A strip of roadway intended to accommodate a single line of moving vehicles.
- (5) Surveys and Plans. Surveys and plans as referred to hereinafter shall be considered as accepted by the county or town board if county or town funds have been used in the improvement carried out with such plans.
- (6) Junction. The point upon which two (2) highway center lines, as herein established or a highway center line and the center line of a railway right-of-way meet.

7.5.3 Classes of Highways and Center Lines

Highways are classified and the position of the center line shall be determined as follows:

- (1) Class C Highways: Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the county or town board. The center line is the midway point between fences or other markers indicating the boundaries of the highway on opposite sides thereof. Town roads not otherwise

classified that have been improved in accordance with engineering surveys and plans accepted by the county or town board. The center line is at the center of the surfacing or pavement or, if there be none, the center of the graded roadbed. Roads and streets in platted subdivisions not otherwise classified. The center line is at the midpoint between the right-of-way lines as shown on the recorded plat.

- (2) Class B Highways: County trunk highways that have not been improved according to engineering surveys or plans accepted by the county board or their agent, the county highway committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof. County trunk highways that have been improved according to engineering surveys and plans accepted by the county board, or their agent, the county highway committee. The center line is the center of the surfacing or pavement, or if there be none, the center, of the graded roadbed.
- (3) Class A Highways: State trunk highways that have been improved according to the surveys and plans of the state highway commission or plans accepted by the county board. The center line is the center of the pavement or surfacing, or if there be none, the center of the graded roadbed, or the center of the directional separator if the highway is to be paved as a double-divided road.

7.5.4 Structures Permitted Within Setback Lines

- (1) No new building, new sign or other new structures or part thereof shall be placed between the setback lines established by this ordinance and the highway except as provided by this ordinance. In situations where structures and signs having been destroyed by fire, storm or other catastrophe, they may be reconstructed on their original location and footprint.
- (2) The following kinds of structures may be placed between the setback line and the highway:
 - A. Open fences and temporary signs not over 18 square feet advertising the sale of farm products produced on the premises.
 - B. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner will file, with the Town of Herman, an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
 - C. Underground structures not capable of being used as foundations for future prohibited overground structures.
 - D. Access or service highways constructed according to plans as approved by the County Highway Committee. In giving such approval, the County Highway Committee shall give due consideration to highway safety and maximum sight distances.

- (3) This subsection shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections, as provided by subsection 7.5.5, paragraph (2), (3), and (4), shall be obstructed.

7.5.5 Setback Distances

- (1) Except as otherwise provided, the distance from the center line to the setback line applicable to the various classifications of highways as defined by sub-section (3) of this Section, shall be as provided by the following paragraphs of this subsection, respectively.
- (2) Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the later classification.
- (3) In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.

- A. Along Highways Generally. The setback distances from the center line, at any point, for the respective classes of highways shall be as follows:

Class C. Highways: setback distances 60 feet except in platted subdivisions where the setback distance shall be 30 feet from the right-of-way lines, as shown on the recorded plat.

Class B Highways: setback distance 75 feet.

Class A Highways: setback distance, 100 feet.

- (4) Provided, however, that in no case shall the distance of the setback line outside of and from the nearest point on the boundary line of the highway be less than the following:
 - A. Class C. Highways, 42 feet.
 - B. Class B. Highways, 67 feet.
 - C. Class A. Highways, 75 feet.

Except that where structures are to be erected between buildings existing at the time of the adoption of this ordinance which are located not more than 150 feet apart and having setback lines less than are established by this section, the Board of Appeals may vary this regulation, provided that the Board of Appeals shall establish such conditions as will save the Town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation will permit a setback less than the average setback of the adjacent buildings.

- (5) At Ordinary Highway Intersection. At grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class B Highways or Class A Highways, there shall be setback lines which shall be straight lines across all sectors connecting points on the setback lines along the intersecting highways, which points are located 50 feet from the intersections of the projections of the setback lines along the highways.
- (6) At Railroad Grade Crossings. At railroad grade crossings the setback lines shall be straight lines across all sectors, connecting points located on the railway right-of-way lines and the highway setback lines, respectively, each 100 feet from the intersection of the highway setback lines and the railway right-of-way line.

7.5.6 Loading Requirements

Adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading do not project into traffic lanes.

7.5.7 Off-Street Parking

Each business, industrial activity agriculture related business or home occupation – major, must provide off-street parking to meet its needs. The number of parking spaces shall be determined by the Zoning Administrator based on historic performance information subject to appeal to the (Board of Appeals) BOA.

7.5.8 Driveways

All driveways installed, altered, changed, replaced or extended after the effective date of this ordinance shall meet the provisions of the Town of Herman Driveway Ordinance including permit requirements.

SECTION 7.6 MODIFICATIONS

7.6.1 Height

The district height limitations elsewhere in this Ordinance (Sections 7.2.8 and 7.14.1) may be exceeded, but such modification shall be in accord with the following:

- (1) Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, **are exempt** from the height limitations of this Ordinance.
- (2) Special Structures, such as elevator leg, gas tanks, grain elevators, scenery lots, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smokestacks, and flag poles, **are exempt** from the height limitations of this Ordinance.
- (3) Essential Services, utilities, water towers, electric power and communication transmission lines **are exempt** from the height limitations of this Ordinance.
- (4) Public or Semi-Public Facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirements.
- (5) Agricultural Structures, such as barns and silos shall not exceed in height twice their distance from the nearest lot line or public road.

7.6.2 Yards

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

- (1) Uncovered Stairs, Landings, and Fire Escapes may, project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
- (2) Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.
- (3) Residential Fences are permitted on property lines but shall not in any case exceed a height of six (6) feet; shall not exceed a height of four (4) feet in the street yard, and shall not be closer than two (2) feet to any public right-of-way. The neighboring property owner shall have the right to choose the proposed fence side.
- (4) Security Fences for uses other than residential are permitted on the property lines but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (5) Essential Services, utilities, electric power and communication transmission lines **are exempt** from setback requirements.

- (6) Landscaping and Vegetation planted at grade, **are exempt** from the yard requirements of this Ordinance.

7.6.3 Average Street Yards

The required street yards may be decreased to the average of the existing street yards of the abutting structures on each side within 200 feet of the proposed building site, but in no case less than thirty (30) feet. This requirement only applies to the CMU, R-1 & R-2 zoning districts.

7.6.4 Additions

Additions in the street yard of existing structures shall not project beyond the average of the existing street yard on the abutting lots or parcels.

SECTION 7.7 SIGNS**7.7.1 Permit Required**

Except those specified in Sections 7.7.2, no signs shall hereafter be located erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a Sign Permit and without being in conformity with the provisions of this Ordinance. The Sign Permit shall be submitted to the Zoning Administrator on forms provided by the Town. The cost of the application for a sign permit shall be determined by the Town's Fee Schedule.

7.7.2 Signs Allowed in all Zoning Districts without a Sign Permit

The following signs are allowed in all zoning districts without a Sign Permit, but are subject to the following regulations:

- (1) Over Show Windows or Doors of a business establishment announcing without a display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
- (2) Real Estate signs not to exceed eight (8) square feet in area on any one side nor sixteen (16) square feet in display area on all sides which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located and limited to one such sign for each premise.
- (3) Name, Occupation, and Warning Signs not to exceed four (4) square feet on any one side nor eight (8) square feet in display area on all sides and limited to one such sign for each premise.
- (4) Bulletin Boards for public, charitable, or religious institutions not to exceed twelve (12) square feet in area on all sides and limited to one such sign for each premise.
- (5) Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
- (6) Official Signs, such as traffic control, parking, restrictions, information, and notices.
- (7) Temporary Signs, the Zoning Administrator may permit the temporary use of a portable sign for advertising purposes in any district provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 90 days in any 365-day period.
- (8) Home Occupation and Home Office Signs, not to exceed six (6) square feet in area.
- (9) Agricultural Signs, pertaining to the sale of agricultural products on a farm or to membership in agricultural or agricultural-related organizations, not to exceed thirty-two (32) square feet in display area on all sides for any one farm.
- (10) Election Campaign Signs, provided that permission shall be obtained from the property owner, renter or lessee; and provided that such sign shall not be erected prior to the first

day of the "election campaign period" as defined in Section 12.04 of the Wisconsin Statutes and shall be removed within four (4) days following the election.

- (11) Rummage Sale and Garage Sale signs, provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.

No such Sign mentioned in Section 7.7.2 shall be located closer than two (2) feet from any public road right-of-way or exceed ten (10) feet in height. These requirements shall not apply to Official Signs.

7.7.3 Signs Permitted within a Business and Industrial Zoning District with a Sign Permit

The following signs are permitted in the Business and Industrial zoning districts with a Sign Permit and are subject to the following regulations:

- (1) Wall Signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed three hundred (300) square feet in area for any one premise.
- (2) Projecting Signs fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for any one premise; shall not extend more than six (6) feet into any required yard; shall not extend more than three (3) feet into any public right-of-way; shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
- (3) Ground Signs limited to one sign for each premise, shall not exceed twenty (20) feet in height above the mean centerline street grade; shall not be located closer to the road right-of-way than 27 feet, and shall not exceed one hundred (100) square feet in area on any one side nor 200 square feet in display area on all sides.
- (4) Pole Signs limited to one sign for each premise, shall not exceed 100 square feet on one side more 200 square feet on all sides for any one premises; shall not extend more than three (3) feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed 35 feet in height above the mean centerline street grade; and shall be not less than 10 feet above the lot grade or sidewalk grade and not less than 15 feet above a parking lot, driveway, or other area used by motor vehicles.
- (5) Window Signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.
- (6) Roof Signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed three hundred (300) square feet on all sides for any one premises.
- (7) Combinations of any of the above signs shall meet all the requirements for the individual sign.

7.7.4 **Signs Permitted in all Zoning Districts with a Sign Permit**

The following signs are permitted in all zoning districts with a Sign Permit. Once the permit has been issued, it shall be located a minimum of two (2) feet from the road right-of-way:

- (1) **Off-Premises Directional Signs** which contain only the name of the establishment, logo, or directional information useful to the traveler in locating the site, such as mileage, route numbers or exit numbers providing that:
 - A. No more than two such signs relating to any one establishment shall be located in the approaching direction along any one road or highway.
 - B. No two directional signs facing the same direction of travel shall be spaced less than one mile apart. However, more than one sign may be placed on the same support provided the total square footage does not exceed the allowable area.
 - C. No such sign shall be located within three hundred (300) feet of a highway interchange, intersection at grade, rest area or wayside.
 - D. No such sign shall exceed ten (10) feet in height.
 - E. No such sign or signs in aggregate if facing the same direction of travel shall exceed thirty-two (32) square feet in display area.
- (2) **On-Premises Identification Signs** for farms, residential subdivisions, parks, multi-family dwelling units, mobile home parks, industrial parks, schools, colleges, religious establishments, town halls, hospitals and for community identification not to exceed twenty-four (24) square feet in display area on all sides; limited to one such sign for each premises.

7.7.5 **Off-Premise Advertising Signs (Including Billboards)**

- (1) **Permitted locations:**
 - A. Zoning District: B (Business)
 - B. Shall not be located within 800 feet of an existing residence, park, school, church, hospital, cemetery, government building or within 2,000 feet of an intersection right of way, or interchange right of way (measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from or entrance to the main traveled way), or 1,500 feet from another off-premise advertising sign.
- (2) **Maximum Height:** 35 feet.
- (3) **Minimum Height:** 8 feet.
- (4) **Maximum number allowed:** 1 per parcel, except 2 will be allowed if combined on the same structure.
- (5) **Minimum lot width:** 50 feet frontage along a highway listed in subsection (a) above.

- (6) Setback regulations:
 - A. Minimum front or street yard setback: 25 feet from highway right-of-way.
 - B. Maximum front or street yard setback: 300 feet from highway right-of-way.
 - C. Minimum interior side yard setback: Height of the sign.
 - D. Minimum rear yard setback: Height of the sign.
- (7) Maximum Area: 4 lane highway, 672 sq. feet per side; 2 lane highway, 288 sq. feet per side. The maximum area for off-premises advertising signs shall be per structure, exclusive of border and trim, apron, base supports, or other structural members. No copy or advertising shall be allowed on the border, apron, or trim.
- (8) Off-premises advertising signs which are back-to-back, side-by-side, bottom-on-top, and V-shaped shall be considered as one structure if they are physically contiguous and which share a common structure in whole or in part.
- (9) Off-premises advertising signs may be illuminated, subject to the following:
 - A. Off-premises advertising signs shall meet the lighting standards or obtain a waiver from these standards from the Board of Appeals.
 - B. Off-premises advertising signs which contain, include, or are illuminated by any flashing, intermittent or moving lights are prohibited, except for the purpose of giving public service information, such as time and temperature.
 - C. Off-premise advertising signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled portion of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle are prohibited.
 - D. No off-premise advertising sign shall be illuminated so that it interferes with the effectiveness of, or obscures, an official traffic sign, device or signal.
 - E. Off-premise advertising signs which are not effectively shielded as to prevent beams or rays of light from being directed at or towards a residence are prohibited.
- (10) Off-premise advertising signs shall not contain moving parts; copy which simulates any traffic control sign; devices which emit audible sound, odor or particulate matter; or statements, words or pictures of obscene, pornographic, immoral character or containing advertising matter which is untruthful.

7.7.6 Traffic Sign Resemblance

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

7.7.7 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure, and the provisions of Section 7.8 shall apply.

7.7.8 Moving or Flashing Signs

No sign shall be erected which has any moving, rotating or flashing intermittent parts. No signs, billboards or other advertising media which create a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

7.7.9 Sign Illumination

No exterior lighting, whether freestanding or mounted on a building or structure, shall be reflected or produce unreasonable glare beyond the parcel boundaries. All exterior lighting fixtures, either wall mounted or freestanding, shall be identified on photometric plan and shall state the light dispersion pattern, intensity of light, and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties. There shall be zero light dispersion at the lot line.

7.7.10 Signs Not In Use

Signs which advertise or identify a business or similar activity must be removed within sixty (60) days of the date said business or similar activity ceases operation or vacates the premises. The removal of the sign shall be the responsibility of the owner of the property on which the sign is located.

7.7.11 Sign Location

No sign mentioned in Section 7.7 shall be located in, on or above a public road right-of-way or navigable body of water, except for Official Signs.

7.7.12 Determining Area of Signs

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

7.7.13 Failure to Act

If an application for a sign permit is not acted upon finally by the Zoning Administrator within six (6) months of the date upon which the Zoning Administrator determines the application complete, it shall be deemed to have been approved.

SECTION 7.8 NONCONFORMING USES, STRUCTURES, AND LOTS

7.8.1 Existing Nonconforming Uses

The lawful nonconforming use of structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however, only the portion of the land and water in actual use may be so continued and the structure housing the non-conforming use may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered if it extends or enlarges the non-conforming use except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

7.8.2 Existing Nonconforming Structures

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking, and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so to comply with the provisions of this Ordinance, and except in the following situations:

- (1) Additions and Enlargements to existing nonconforming structures are permitted so long as they do not increase the extent of nonconformity and shall conform with the required buildings setback lines along roads, water and highways and the yard, height, parking, loading and access provisions of this Ordinance.
- (2) If such structure is destroyed or damaged due to violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity, the structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

7.8.3 Changes and Substitutions

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

7.8.4 Vacant Substandard Lots

A vacant legal lot or parcel of record which does not contain sufficient area to conform to the dimensional requirements of this Ordinance, but which is at least 50 feet wide and 7,500 square feet in area may be used as a building site for a single-family dwelling and its accessory structures upon issuance of a Zoning Permit subject to the following conditions.

- (1) Such use is permitted in the zoning district.
- (2) The lot is on record in the Sheboygan County Register of Deeds office prior to the effective date of this ordinance.
- (3) All the dimensional requirements of the Ordinance are complied with insofar as practical.

SECTION 7.9 BOARD OF APPEALS

7.9.1 Board of Appeals Establishment and Administration

- (1) The Board of Appeals shall consist of five (5) members appointed by the Town Chairman subject to confirmation by the Town Board, for three (3) years, except that of those first appointed one (1) shall serve for one (1) year, two (2) for two (2) years, and two (2) for three (3) years. The members shall receive a per diem equal to that of the Town Board member and shall be removable by the Town Chairman for cause upon written charges and after public hearing and Town Board approval. The Town Chairman shall designate one of the members chairmen which requires Town Board approval. The Town Chairman shall appoint an alternate member for a term of three (3) years, who shall act with full power, only when a member of the Board of Appeals refuses to vote because of interest.
- (2) Vacancies shall be filled for the unexpired terms of members whose terms become vacated.
- (3) Not more than one (1) member of the Town Board may be a member of the Board of Appeals.
- (4) Meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (5) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk and shall be a public record.
- (6) Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town of Herman effected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof together with a filing fee established by the Town's Fee Schedule. The officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the bearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time.

7.9.2 Power of the Board of Appeals

The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administering official in the enforcement of this Ordinance.

- (2) To hear and decide special exceptions to the terms of this Ordinance upon which the Board of Appeals is required to pass.
- (3) To authorize, upon appeal in specific cases, such variance from the terms of this Ordinance, as will not be contrary to the public interest, where, owing to special conditions peculiar to a specific lot or tract of land, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (4) In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that a “practical difficulty” or an “unnecessary hardship” is created.
- (5) Permit the erection and use of a building or premises in any location, subject to appropriate conditions and safeguards in harmony with the general purposes of this Ordinance, for such public utility purposes which are reasonably necessary for public convenience and welfare.
- (6) The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Town Board. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to affect any variation in the requirements of this Ordinance.
- (7) In addition to the foregoing, the Board of Appeals shall have the following specific powers:
 - A. Grant a permit for a temporary building which is incidental to proper development, such permit to be issued for a period of not more than one (1) year.
 - B. Grant a permit for the extension of a district boundary for a distance of not more than 25 feet only where the boundary of a district divides a lot in a single ownership at the time of the adoption of this Ordinance.
 - C. By special permit, after due notice and public hearing, authorize the location of any of the following buildings or uses in any district from which they are excluded by this Ordinance, provided that such building or use shall comply with all other regulations in the district in which it is proposed to be relocated.
 1. Private clubs and lodges excepting those the chief activity of which is a service customarily carried on as a business; but no such use shall be authorized or permitted in the Industrial District.
 2. Hospitals and clinics but no such use shall be authorized or permitted in the Industrial District.

3. Institutions of an educational, philanthropic or charitable nature, but no such use shall be authorized or permitted in the Industrial District.
 4. Cemeteries
 5. Storage garage or parking area in connection with a housing development project.
 6. Sewage disposal plant.
- D. Interpret the provision of this ordinance in such a way as to carry out the intent and purpose of the plan as shown on the Zoning Map accompanying and made a part of this ordinance, where the street Layout actually on the ground varies from the street layout on the aforesaid map.
- E. The Board of Appeals shall have the power to call on any other town department or outside consultation for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required. Any cost associated with outside consultation shall be paid by the applicant.
- (8) Except as specifically provided, no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district.
- (9) In exercising the foregoing powers the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this Ordinance.

SECTION 7.10 CHANGES AND AMENDMENTS

7.10.1 Authority

Whenever the public necessity, convenience general welfare or good zoning practice require, the town Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this ordinance or amendments thereto.

7.10.2 Initiation

A zoning ordinance text amendment may be initiated by the Town Board or by a petition of 20 or more owners of property within the Town. Zoning Map amendments maybe petitioned by one or more property owners within the Town.

7.10.3 Petitions

Petitions for any change to district boundaries or amendments to the regulations shall be filed with the Town Clerk, describing the zoning change, the properties to be rezoned, the reason for the petition, the proposed use and having attached following:

- (1) Plat plan or scale drawing showing the area proposed to be rezoned, its location and dimensions and the location and classification of adjacent properties and properties within 200 feet of the area proposed to be rezoned.
- (2) Owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned
- (3) Petition fees shall be determined by the Town's Fee Schedule maintained by the Town Clerk.

7.10.4 Plan Commission Public Hearing, Review and Recommendation

The Town Board or Planning Commission shall hold a public hearing upon each petition after giving at least ten (10) days' notice by publication in the official newspaper at least two (2) times (Class 2 Notice) and posting notices in public places listing the time and place of such hearing and a summary of the changes or amendments proposed.

The Town Board or Planning Commission shall have the power to call on any other town department or outside consultation for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required. Any cost associated with outside consultation shall be paid by the petitioner.

7.10.5 Town Board Action

Following hearing by the Plan Commission or Town Board, and after careful consideration of the recommendations, the Town Board shall vote on the passage of the proposed changes or amendments.

7.10.6 Protest

In the event of a protest against such change or amendment to this ordinance, duly signed and acknowledged by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such change or amendment shall not

become effective except by the unanimous vote of the Town Board.

7.10.7 Farmland Preservation

Any amendments to the Farmland Preservation Zoning District text or map shall be in compliance with Section 7.14 of this ordinance.

7.10.8 Failure to Act

If an application for a proposed amendment is not acted upon finally by the Town Board within six (6) months of the date upon which the findings and recommendations of the Plan Commission are filed with the Board, it shall be deemed to have been approved.

SECTION 7.11 PLAN COMMISSION

7.11.1 Composition

The Plan Commission shall consist of no less than five or more than eight members, up to seven of whom are appointed by the Town Board. The Town Building and Zoning Administrator shall serve as an ex officio voting member of the Plan Commission. The Town Board shall appoint the Plan Commission Chairperson, and the Town Clerk shall serve as the Clerk of the Plan Commission. Other Town elected officials can also be appointed and approved to serve on the Commission, except that the Commission shall always have at least one citizen member who is not a Town official. All members of the Plan Commission shall be Electors of the Town of Herman. All other provisions of State Statutes 61.35 and 62.23 shall apply.

Members of the Commission shall be appointed to hold office for a period of two years. Appointments shall be made and approved by the Town Board during the month of April, or for the balance of the term at any other time if a vacancy occurs during a term. In accordance with Wis. Stat. s. 60.31, each member of the Plan Commission shall sign and file with the town clerk the oath of office form prescribed under Wis. Stat. s. 19.01 within 5 days after notification of their appointment.

7.11.2 Rules and Organization

The Plan Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. Such record shall be a public record. Meetings of the Commission shall be held at the call of the Plan Commission chairperson and at such other times as the Commission may determine. The Plan Commission shall have the power and authority to employ experts and a staff.

The Planning Commission shall have the power to call on any other town department or outside consultation for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required. Any cost associated with outside consultation directed by the Planning Commission shall be paid by the petitioner.

7.11.3 Functions

The Plan Commission shall have the following functions and duties:

- (1) To make a recommendation to the Town Board on the adoption and amendment to the town comprehensive plan for the physical development of the Town.
- (2) To make a recommendation to the Town Board on the issuance of a Conditional Use Permit in accordance with Section 7.4 of this Ordinance.
- (3) To make a recommendation to the Town Board on any petition to amend this Ordinance or change the district boundaries.
- (4) To make a recommendation to the Town Board on any application for a land division under the Town of Herman Land Division Ordinance.
- (5) Any other duties assigned by the Town Board.

SECTION 7.12 PERFORMANCE STANDARDS

7.12.1 Compliance

This Ordinance allows specific uses in specified districts, and the following performance standards are intended to limit, restrict, and/or prohibit any harmful effects of those uses outside their property or district. No structure, land, or water shall hereafter be used except in compliance with applicable district regulations and the performance standards listed in this Section.

(1) Noise:

- A. Shall be muffled or otherwise controlled so as not to become objectionable to neighboring properties due to intensity, intermittence, duration, beat frequency, impulse/periodic character, or shrillness. Noise from temporary construction, demolition, and vehicles that enter and leave the subject parcel are exempt from this standard.
- B. Sirens, whistles, and bells that are maintained and utilized solely to serve a public purpose are not to be enjoined under these performance standards.

(2) Exterior Lighting:

- A. Shall be located, oriented, and shielded – and of an intensity so as to illuminate only the building or lot without adversely affecting activity on neighboring properties or traffic on roadways.
- B. Shall not exceed a total maximum height of 25 feet.
- C. Shall be aimed downward and directed away from nearby residential areas.
- D. Shall not flash, pulsate, nor impair or hinder vision on roadways or neighboring properties.

(3) Air Pollution:

No activity shall substantially contribute to exceeding local, State, or Federal air pollution standards or emit fly ash, dust, fumes, vapors, mists, or gases in such quantities as to endanger the health or condition of persons, animals, vegetation, or other forms of property.

(4) Glare:

No activity shall emit glare, flickers, or concentrated light (e.g., lasers) that is visible outside its property. (Exceptions may be allowed for certain uses in the IM and BRIP Districts.) All operations producing intense glare shall be conducted within a completely enclosed building.

(5) Heat, Humidity:

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of 5 degrees Fahrenheit on another property.

(6) Liquid or Solid Wastes:

No activity shall discharge at any point onto any land or water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature that can contaminate, pollute, or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing public utilities, or can injure or damage persons or property.

(7) Radioactivity or Electromagnetic Interference:

No activity shall emit radioactivity or electromagnetic interference outside its property that are dangerous or adversely affect the use of neighboring properties.

(8) Odors:

No activity shall emit odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthy outside its property. When providing for odor measurement and control, the Town may use as a guide Section NR 429.03 of the Wisconsin Administrative Code. Agriculture odors associated with normal agricultural activities are exempted from this Subsection, except those odors created by the use of Center Pivot Waste Distribution Systems and Traveling Gun Waste Distribution Systems, the use of which is prohibited in all zoning districts except FP - Farmland Preservation.

(9) Vibration:

With the exception of allowable activities in the IM District, no activity shall emit vibrations that are discernable without instruments outside the property. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel are exempt from this standard.

(10) Fire or Explosive Hazards:

All activities involving the manufacturing, utilization, processing, or storage of flammable, inflammable, and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All such materials shall be manufactured, utilized, processed, and stored only in completely enclosed structures that have incombustible exterior walls and an automatic fire extinguishing system.

(11) Landscaping:

Any dead or damaged trees that pose a danger to the public shall be removed in a timely manner.

(12) Water Quality:

- A. No activity shall store or allow the discharge of any treated, untreated, or inadequately treated liquid or substance in such a quantity, noxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating of debris, oil, scum, color, odor, taste, or be harmful to human, animal, plant, or aquatic life.

- B. In addition, no activity shall withdraw water or discharge liquid or substance so as to exceed or contribute toward the exceeding of the minimum standard set in Chapter NR 102 of the Wisconsin Administrative Code for all navigable waters.

7.12.2 Compliance

A violation of this Section which is so flagrant as to constitute a potential nuisance shall be the subject of a nuisance action brought by the Town.

SECTION 7.13 DEFINITIONS**(See Section 7.14.4 for Additional Farm-Related Definitions)**

For the purposes of this Ordinance, the following definitions shall be used. 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 words "shall", "will", and "must" are always mandatory. The words "may" and "should" are discretionary terms. The masculine shall include the feminine. Terms not defined in this Section, shall be interpreted based on common usage.

Accessory Use or Structure: A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal structure.

Adult Oriented Establishments: Land uses that include any facility involving the display of sexually oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas.

Animal Boarding or Breeding Facility: Land uses where five (5) or more animals six (6) months of age or older are bred by a person providing facilities for breeding and the offspring are sold, or where such animals are received for care, training, and boarding for compensation, not including a small animal hospital, clinic, or pet shop. These uses include exercise yards, fields, training areas, and trails.

Bed and Breakfast Establishment: Land uses which provide lodging facilities that are operator-occupied residences providing accommodations for a charge to the public with no more than five guest rooms for rent, in operation for more than 10 nights in a 12-month period, provide meals only to renters of the place, and are clearly residential structures in design, scale, and appearance. Such land uses may provide indoor/outdoor recreational facilities for the exclusive use of their customers.

Building: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials of any kind or nature.

Business Incubator: A workspace that offers startups and entrepreneurs low-cost access to the resources they need, usually under one roof, for a specified period of time. Incubators often provide a desk or office, and access to expert advisors, mentors, administrative support, office equipment, training, and/or potential investors.

Conditional Uses: Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the FP Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46 and Chapter 7.14 of this ordinance.

Duplex: A dwelling containing two dwelling units.

Dwelling: A building designed or used as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins.

Dwelling, Multifamily: A dwelling containing three or more units.

Dwelling, Single Family: A dwelling containing one dwelling unit.

Dwelling Unit: One or more rooms that are arranged, designed, or used as living quarters for one family only.

E-commerce: The buying and selling of goods, information, or services using the internet, and the transfer of money and data to execute these transactions. Can include the development of online storefronts and the fulfillment of online orders.

Essential Services: Services provided by public and private utilities necessary for the exercise of the use or service of the structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Exotic Animals: Exotic means not indigenous to Wisconsin farming. Exotic does not include domestic bovine animals, bison, cervids, alpacas, llamas, goats, sheep, game birds, poultry or fish.

Family Day Care Home: A dwelling unit where supervision and care is licensed by the Wisconsin Department of Children and Families.

Floor Area: Area in square feet of all floors in a building including elevators and stairways, measured by perimeter of outside walls multiplied by the number of floors, including basements which are used in the primary function of the building.

Frontage: The smallest dimension of a lot abutting a public street measured along the street line.

Governmental, Institutional, Religious, or Nonprofit Community Uses: Service and support facilities such as churches, private schools, clinics, post offices, town hall, fire stations, funeral homes, and recreational or fraternal facilities such as clubs and lodges, meeting halls, and community centers.

Group Day Care Center Facility: Land uses in which qualified persons provide childcare services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use.

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

Heavy Industrial: Land uses which meet one or more of the following criteria: 1) are not conducted entirely within an enclosed building; 2) are potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and 3) pose a significant safety hazard (such as danger of explosion). Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal

product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.

Home Occupation: See Section 7.4.4 for Definition.

Indoor Lodging Facility: Land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

Indoor Sales and Service: Land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes general merchandise stores, grocery stores, bike repair facility, bait shops, sporting goods stores, antique stores, gift shops, laundromats, artisan and artist studios, bakeries, and the like. Artisan craft production such as consumer ceramics, custom woodworking, or other production activities directly associated with retail sales are regulated as "light industrial activities as an accessory to retail sales or service."

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

Indoor Commercial Entertainment and Service: Land uses which provide entertainment services entirely within the premises. Such activities often have operating hours that extend significantly later than most other business land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. Such land uses do not include adult oriented establishments.

In Vehicle Sales and Service: Land uses which perform sales and/or services to persons in vehicles, or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and all forms of car washes.

Kennel: The use of land, with related buildings or structures, for the commercial breeding, rearing, or boarding of more than four (4) dogs.

Zoning Administrator: The Zoning Administrator for the Town of Herman or such person or firm designated to perform the duties of the Zoning Administrator.

Light Industrial: Land uses which operations (with the exception of loading operations):

- (1) are conducted entirely within an enclosed building.
- (2) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line.
- (3) do not pose a significant safety hazard (such as danger of explosion) and
- (4) comply with all of the applicable performance standards.

Light industrial land uses may conduct retail sales activity as an accessory use.

Light Industrial Activity as an Accessory to Indoor Sales and Service: Lands uses that include any light industrial activity conducted exclusively indoors that is clearly incidental to an indoor sales and service facility on the same site.

Livestock Facilities with More Than 500 Animal Units: Means facilities covered by Wis. Adm. Code ch. ATCP 51.

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

Long Term Outdoor Display and Sale: Land uses which conduct sales or display merchandise or equipment on a long term basis outside of an enclosed building as a principal accessory use of the lot. Examples of such land uses would include vehicle and equipment sales and rental, manufactured housing sales, monument sales, and garden centers. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junk or salvage yard or other permanent outdoor land uses specifically defined by this Ordinance.

Lot: A contiguous and continuous quantity of land in possession of, owned by, or recorded as property of the same claimant, person, persons, or company and having frontage on a public road, occupied by a principal structure or use, and sufficient in size to meet the parcel width, parcel frontage, parcel area, yard, parking area, and other space provisions of this Ordinance. For the purposes of this definition, the boundaries of the lot include those commonly owned parcels that are abutting or touching at more than one point and those commonly owned parcels that are separated only by a waterway or a transportation or utility right-of-way.

Lot Width: The average width of a parcel of land. The minimum lot width shall be measured at the building line, water's edge and at the road frontage marks.

Manufactured Home: A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

Mobile Home: Also see Section 7.2.9(7). A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be equipped and used, primarily for human habitation, with walls of rigid collapsible construction, which has an overall length in excess of 45 feet. "Mobile Home" includes the mobile home structure, its plumbing, heating, air conditioning, and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

Mobile Home Park: Mobile Home Parks are allowed as a conditional use in the Recreational (REC) zoning district. Any plot or tract of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home: Any structure or component thereof intended for use as a dwelling and either (a) of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for

installation, connection, or assembly and installation at the building site, or (b) of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation, on the building site and for which certification is sought by the manufacturer.

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

Multi-Family Residential: A building holding 3 or more dwelling units. This includes apartment buildings and other dwelling units that are enclosed within a building or attached by a common floor or wall. Each dwelling unit may be owner-occupied or renter-occupied, with the building, lot, and/or unit in fee simple or condominium ownership. If in condominium ownership, the dwelling units may be detached.

Nonmetallic Mining: Land uses that include operations or activities for extraction from the earth, for sale or use by the operator, of mineral aggregates such as stone, sand and gravel, and nonmetallic minerals, related operations or activities such as drilling and blasting, excavations, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as fracking, crushing, screening, scalping, dewatering and blending. Nonmetallic mining operation does not include or allow the following activities or uses by way of illustration which include but are not limited to: manufacture of concrete building blocks or other similar products, asphalt or hot blacktop mixing or production of ready mix concrete.

Nonconforming Structure: Any structure, at the time of the effective date of this Ordinance, which does not conform to the regulations of this Ordinance.

Nonconforming Use: Any use, at the time of the effective date of this Ordinance, which does not conform to the regulations of this Ordinance.

Oil and Gas Exploration: Activities licensed by the Wisconsin Department of Natural Resources under subd. II of ch. 295 Wis. Stats.

Outdoor Public Recreation - Active: Land uses that include recreational uses located on public or private property which involves active recreational activities that are open to the public or to customers, patrons, or members. Active uses include play courts (such as tennis courts and basketball courts); playfields (such as ball diamonds, football fields, and soccer fields); tot lots; outdoor swimming pools; swimming beach areas; fitness courses; golf courses; trap, target, and shooting ranges; and similar land uses.

Outdoor Public Recreation - Passive: Land uses that include recreational uses located on public or private property which involves passive recreational activities that are open to the public or to customers, patrons, or members. Passive uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, ski trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas, and similar land uses.

Personal or Professional Sales and Service: Land uses that are exclusively indoor whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include, but are not limited to, professional services, insurance services, realty offices,

financial services, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses.

Personal Storage Unit: Land uses oriented to the indoor storage of personal items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as "mini-warehouses."

Portable Storage Unit: Land uses that include units such as shipping containers; semi-trailers and similar large transport vehicles not in road operable condition; and portable on demand storage (PODS) and store and move (SAM) containers, intended for on-site storage or for temporary storage while a household or business is relocating. Also includes fabric storage structures if not anchored to a foundation.

Principal Uses: The primary uses conducted on a lot located within the zoning district. A lot may have more than one principal use, but only one principal use per defined area of ground within the lot.

Private Airport: An airfield or land strip where the use of the facility is limited to non-commercial flights.

Residential Accessory Structure: Land uses clearly incidental to the primary residential use and includes such uses as garages, carports, storage sheds, and decks.

Resort Establishment: Land uses which provide overnight housing in individual rooms, suites of rooms, cabins, or cottages. Such land uses may also provide indoor and outdoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

Sales and Service Activity (Indoor) as an Accessory to Indoor Storage and Wholesaling: Land uses that include any indoor sales and service activity that is clearly incidental to an indoor storage and wholesaling facility on the same site.

Sales and Service Activity (Indoor) as an Accessory to Light Industrial: Land uses that include any indoor sales or service activity that is clearly incidental to light industrial activity on the same site.

Salvage or Junk Yard: Land uses that include any land or structure used for a salvaging operation including, but not limited to, the above-ground outdoor storage, collection, recycling, dismantlement, and/or sale of old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; wastepaper and other waste or discarded material which might be prepared to be used again in some form; inoperable appliances and machinery; and three (3) or more motor unlicensed vehicles or (6) pieces or more of abandoned farm equipment no longer used as such, to be used for scrap metal or stripping of parts. It shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process. Licensed recycling facilities involving on-site outdoor storage of salvage materials are not included in this land use.

Shipping Container: A container originally designed or used to store materials or merchandise during shipping or hauling upon ships, rail, or other types of transportation.

Side Yard: A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the nearest point of any structure and the lot line. (Also see Section 7.7)

Signs: Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made or known, and which are used to advertise or promote an individual firm, association, corporation, profession, business, commodity, or product and which are visible from any public street or highway. (Also see Section 7.7)

Single-Family Residence: Land uses consisting of a single detached building containing one dwelling unit. This land use includes modular and manufactured homes as defined by this ordinance. This land use does not include mobile homes as defined in the Wisconsin Statutes 101.91(10).

Single-Family Residence Accessory to a Business Use: Land uses consisting of a single-family residence that is accessory to a business use (for shopkeeper or employee, for example). This residence may be attached to the Business building or be freestanding.

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

Solid or Hazardous Waste Facility: Land uses that include any area, lot, land, parcel, building, or structure, or part thereof, used for deposit, disposal, processing, or transfer of solid, demolition, or hazardous waste.

Storage or Wholesaling (Indoor): Land uses primarily oriented to the receiving, holding, and shipping of materials. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. It does not include uses described in the "personal storage facility" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

Storage or Wholesaling (Outdoor): Land uses primarily oriented to the receiving, holding, and shipping of materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include equipment yards, lumber yards, coal yards, landscaping materials yard, tank farms, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Contractors' storage yards are considered accessory in the "contractor shop" land use category. Retail outlets associated with this principal use shall be considered an accessory use.

Structure: Any erection or construction such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment, excepting utility lines and appurtenances.

Street Yard: The front yard. Corner lots shall have two such yards.

Streets or Roads: A public right-of-way providing primary access to abutting properties.

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

Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage Uses: Activities that require a Conditional Use Permit under this ordinance unless the use is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for that use.

Travel Trailer: A travel trailer is a vehicular, portable, structure built on a chassis and designed as a temporary dwelling for travel, recreation, and vacation.

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

Two Family Residence: A building containing two (2) dwelling units. This includes dwelling units that are enclosed within a building or attached by a common floor or wall.

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

Wind Energy System: Wind Energy System shall mean equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes all of the land, buildings, structures and equipment used by the wind energy system and its support facilities including the wind turbine, tower, access roads, control and office facilities, meteorological towers, maintenance and all power collection and transmission systems.

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

SECTION 7.14 FARMLAND PRESERVATION

7.14.1 FP Farmland Preservation Zoning District

The purpose of this district is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland and to allow participation in the state’s farmland preservation program. In support of this intent, all new non-farm residences must be zoned out of Farmland Preservation. Land zoned under this district must comply with the following:

(1) Permitted Uses

- A. Agricultural uses. See Section 7.14.4 for agricultural use definitions.
- B. Not including the specified accessory uses identified in Subsection (2), other accessory uses including the farm residence. See Section 7.14.4 for accessory use definition.
- C. Upon notification to the Town Board) of any transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a Conditional Use Permit for those uses.

[Subsection (C) acknowledges that state or federal law may sometimes preempt local authority to restrict the siting of certain facilities. It does not purport to determine which state or federal actions are preemptive. It merely says that IF state or federal action is preemptive, no local permit is required and there is no need to rezone the site out of the farmland preservation district. Uses covered by subsection (C) might include, for example, state and federal highways, federally mandated pipelines, and energy generation and transmission facilities whose location and design are specifically mandated by the Wisconsin Public Service Commission pursuant to a certificate of convenience and necessity.]

- D. Undeveloped natural resource and open space areas.
- E. Non-Farm residences built prior to January 1, 2014.
- F. Solar energy Systems, small scale.

(2) Conditional Uses

- A. Reserved.
- B. Agriculture-related uses. (See Section 7.14.4 for agricultural related use definition.)
- C. Upon Notification of the Town Board, transportation, communication, pipeline, electric transmission, utility, or drainage uses, facilities for the generation from sunlight, wind, coal, or natural gas, if all the following apply:

1. The use and its location in the farmland preservation zoning district are consistent with the purposes 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 agricultural use 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.
- D. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
1. The use and its location in the farmland preservation zoning district are consistent with the purposes 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 the conversion of land, at and around the site of the use, from agricultural use 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.
- E. Nonmetallic mineral extraction if all of the following apply:
1. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. §295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the Wisconsin Department of Natural Resources concerning the restoration of nonmetallic mining sites.
 2. The operation and its location in the farmland preservation zoning district

are consistent with the purposes of the farmland preservation zoning district.

3. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
 4. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 5. The operation 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.
 6. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
 7. Compliance with Section 7.4.5 of this ordinance.
- F. Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.
- G. Private airport or air strip qualifying as an accessory use under s. 91.01(1)
- H. Dog kennels qualifying as an accessory use under s. 91.01(1)
- I. Game farms/shooting preserves qualifying as an accessory use under s. 91.01(1) (b). To meet the definition of agricultural use, the game birds or cervids must be raised on the farm for release for hunting.
- J. Shooting Ranges meeting the requirements in s. 91.01(1)(d).
- K. Manure storage systems. (Please note that permits for manure storage systems are subject to S. ATCP 50.56 and Ch. ATCP 51, Wis Adm. Code.
- L. Slaughtering of livestock from the FP District.
- M. Processing agricultural by-products or wastes received directly from farms, including farms in the FP District.
- N. Solar energy systems, large-and mid-scale.

Upon a recommendation from the Plan Commission, the Town Board may issue a Conditional Use Permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. Before issuing a Conditional Use Permit, the Town Board shall determine in writing, that the proposed use meets applicable conditions under this section. The Town Board may issue the permit subject to any

additional conditions beyond which the Plan Commission recommended to carry out the purposes of this ordinance.

(3) Area, Height and Yard Requirements:

- A. All Principal Structures shall be on a lot consistent with the principal use permitted on such lot by the regulations of the district in which it is located.
- B. No Zoning Permit shall be issued for a lot which abuts a public road dedicated to only a portion of its proposed width and located on that site thereof from which the required dedication has not been secured.
- C. Dimensions of Building Sites:
 - 1. Minimum Area and Width: Except as otherwise specifically required or permitted, the minimum lot area shall be 5.0 acre and a minimum lot width of 250 feet at the building line, 250 feet at the water's edge and 250 feet of road frontage.
 - 2. Side and Rear Yards: There shall be a twenty (20) foot minimum side and rear yard setback for structures such as farmhouses, sheds for farm machines, crop storage facilities and other accessory structures. However, barns for livestock, shall have a fifty (50) foot minimum side and rear yard setback unless subject to more restrictive provisions of a livestock siting ordinance.
 - 3. Height Limitations: The maximum height for all farm related residential and residential accessory structures shall be thirty-five (35) feet. The maximum height for all farm buildings shall be sixty (60) feet. Feed storage structures such as silos and grain storage units (including elevators) are exempt from height restrictions. Height limitations are further regulated per Section 6.1 of this Ordinance.
 - 4. Yard and Other Limitations: Per Sections 7.6.2, 7.6.3 and 7.6.4 of this Ordinance.
 - 5. Setbacks: All new structures shall be regulated in accordance with Section 7.5 of this Ordinance.
 - 6. Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Zoning Administrator as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
 - 7. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope within the zoning setback distance except with the written consent of the abutting property owner and with the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.

7.14.2 Rezoning Land out of the FP Farmland Preservation Zoning District

Land may be rezoned out of the FP Farmland Preservation Zoning District if the Plan Commission through their review and recommendation, and Town Board, after a public hearing, finds that all of the following apply:

- (1) The land is better suited for a use not allowed in the FP Farmland Preservation Zoning District.
- (2) The rezoning is consistent with the Town of Herman Comprehensive Plan.
- (3) The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of zoning.
- (4) 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.

The above Section 7.14.2 (1-4) does not apply to any of the following situations:

- (5) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
- (6) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Sheboygan County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

7.14.3 Certification of Ordinance and Amendments by DATCP

- (1) This Zoning Ordinance must be certified by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in order for owners of land that is zoned FP Farmland Preservation in the Town of Herman to be eligible to claim tax credits under the State of Wisconsin's Farmland Preservation Program.
- (2) The Town of Herman shall notify DATCP of any amendments as required by Wis. Stats. 91.36(8).
- (3) The Town of Herman shall notify DATCP and the Sheboygan County Planning and Conservation Department, by March 1 annually, of any acres rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres as required by Wis. Stats. 91.48(2) and 91.48(3).

7.14.4 Farmland Preservation Definitions

For the purposes of Section 7.14 of this Ordinance, the following definitions shall be used. Please see Section 7.13 for conventional zoning district definitions.

Accessory Use: With the FP Zoning District 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. This may include, for example:
 - A. A facility used to store or process raw agricultural commodities, all of which are

- produced on the farm.
 - B. A facility used to keep livestock on the farm.
 - C. A facility used to store or process inputs primarily for agricultural uses on the farm.
 - D. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - E. A wind turbine or solar energy facility that collects wind or solar energy on the farm and uses or transforms it to provide energy primarily for use on the farm.
 - F. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - G. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use.
 - (3) A farm residence, including normal residential appurtenances.
 - (4) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - A. It is conducted on a farm by an owner or operator of that farm.
 - B. It requires no buildings, structures, or improvements other than those described in par. (1) or (3).
 - C. It employs no more than 4 full-time employees annually.
 - D. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
 - (5) Any other use that DATCP, by rule, identifies as an accessory use.

Agricultural Use:

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 payment program.
- (10) Any other use that the Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an agricultural use.

Agriculture-related use:

An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes. In addition, any use that the Department of Agriculture, Trade and Consumer Protection identifies by rule as an

agriculture-related use. An “agricultural related use” must be primary (not just incidentally) related to agriculture and must have a direct connection to agriculture uses in the FP zoning district.

Animal Confinement Facility: Any animal, livestock, or poultry operation with 500 or more animal units that are used in the production of food, fiber, or other animal products or that will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

Animal Unit:

Animal Unit has the following meaning that was given in s. NR 243.03 (3) Wisconsin Administrative Code as of April 27, 2004: “Animal Unit” means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained, or stabled in an animal feeding operation. The total number of animal units for a given type of animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

Animal Unit Calculation Table		
Number Equivalent to 500 Animal Units		
Number Equivalent to 500 Animal Units	Animal Type	Animal Equivalency Factor
	Dairy Cattle:	
350	Milking and Dry Cows	1.4
455	Heifers (800 to 1200 lbs)	1.1
835	Heifers (400 to 800 lbs)	0.6
2500	Calves (under 400 lbs)	0.2
	Beef Cattle:	
500	Steers or Cows (600 lbs to Mkt.)	1.0
1000	Calves (under 600 lbs)	0.5
350	Bulls	1.4
	Swine:	
1250	Pigs (55 lbs to Mkt.)	0.4
5000	Pigs (up to 55 lbs)	0.1
1250	Sows	0.4
1000	Boars	0.5
	Sheep:	
5000	Per Animal	0.1
	Horses:	
250	Per Animal	2.0
	Ducks:	
2500	Per Bird (Wet Lot)	0.2
50000	Per Bird (Dry Lot)	0.01
	Chickens:	
50000	Layers	0.01
100000	Broilers	0.005
50000	Broilers (continuous overflow watering)	0.01
15000	Layers or Broilers (Liquid)	0.033

	Manure System)	
	Turkeys:	
27500	Per Bird	0.018
	Combined Animal Units:	
500	Calculated Total	

Certified Farmland Preservation Plan:

A farmland preservation plan that is certified as determined under Wis. Stats. 91.12.

Certified Farmland Preservation Zoning Ordinance:

A zoning ordinance that is certified as determined under Wis. Stats. 91.32.

Common Ownership:

Ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, and tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance.

Contiguous:

Adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of- way. Parcels are not "contiguous" if they meet only at a single point.

Conditional Uses:

Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the FP Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46.

Density:

The number of dwelling units per acre allowable under the schedule of district regulations.

Farm:

All land under common ownership that is primarily devoted to agricultural use. For the purpose of this definition, land is deemed to be primarily devoted to agricultural use if the following apply:

- (1) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether on a majority of the land area is in agricultural use; or,
- (2) A majority (greater than 50%) of the land is in agricultural use.

In determining whether land is in agricultural use for purposes of par. (2), a zoning authority may consider how the land is classified for property tax purposes. See ch. TAX 18, Wis. Adm. Code.

Farm Residence:

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

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

To qualify as a "farm residence," a residence must be located on a "farm." If a farm owner deeds off a residential parcel to another person (even if that person is the farm owner's parent, child, or employee), the separately owned parcel is no longer part of the original "farm." A residence built on that parcel does not qualify as a "farm residence" unless the parcel qualifies as a "farm" in its own right.

Gross Farm Revenues:

Means 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. Gross farm revenue includes receipts accruing to a renter but does not include rent paid to the landowner.

Livestock:

Includes bovine animals, equine animals, goats, poultry, sheep, swine, farm raised deer, farm raised game birds, camelids, ratites and farm raised fish.

Livestock Facilities with More Than 500 Animal Units: Means facilities covered by Wis. Adm. Code ch. ATCP 51.

Nonfarm Residence: Any residence other than a farm residence.

Nonfarm Residential Acreage:

Nonfarm residential acreage" means the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which Plan Commission has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the Conditional Use Permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres

Nonfarm residential acreage is defined ONLY for the purpose of calculating residential densities in connection with Conditional Use Permit applications in the FP zoning district.

This ordinance counts, as "nonfarm residential acreage," parcels on which residences have been approved but not yet built, as well as "open space" parcels less than 10 acres. Larger "open space parcels" may be counted as "farm acreage" (see definitions of "farm acreage" and "open space parcel)."

Nonconforming Uses or Structures: Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance. Any such structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Open Space Parcel:

A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

Person:

An individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

Prime Farmland:

An area with a class I or II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or land that is identified as prime farmland in a certified farmland preservation plan. Prime farmland soils are not necessarily associated with the boundaries of the FP Farmland Preservation Zoning District.

Protected Farmland:

Land that is any of following:

- (1) Land that is located in the FP Farmland Preservation Zoning District certified under ch. 91, Wis Stats.
- (2) Covered by a farmland preservation agreement under ch. 91, Wis Stats.
- (3) Covered by an agricultural conservation easement under s. 93.73, Wis Stats.
- (4) Otherwise legally protected from nonagricultural development

SECTION 7.15 RIGHT-TO-FARM

7.15.1 Purpose

It is the intent of this section to conserve, protect, and encourage the continued use and improvement of agricultural land in the Town of Herman for the production of agricultural products. Additionally, this Right-to-Farm section is designed to preserve the right of farmers to produce, without unnecessary interference, agricultural products using generally accepted agricultural practices.

7.15.2 Applicability

The provisions of this section shall apply to all land use change applications within the jurisdiction of this Ordinance.

7.15.3 Limitation on Private Action

This section shall not apply in the case of a negligent agricultural operation. An agricultural use or agricultural practice is not, nor shall it become, a nuisance if the following apply:

- (1) The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural use without substantial interruption before the plaintiff began the use of property that the plaintiff alleges was interfered with by the agricultural use or agricultural practice; and
- (2) The agricultural use or agricultural practice does not present a substantial threat to public health or safety.

7.15.4 Development Review

In reviewing any application for a land use change, the Town Board and/or Plan Commission shall, to the maximum extent feasible, ensure that such change does not adversely affect any existing agricultural operation on land not subject to the land use change, including access to active agricultural operations.

7.15.5 Sounds and Smells

Farmers often work late into the night, especially during planting and harvest time, when noise from their machinery can be heard. Land preparation can cause dust, especially during windy and dry weather. The smell of organic fertilizer may be evident during field applications.

7.15.6 Slow Moving Vehicles

Moving at top speeds of 15 to 20 miles per hour, farm equipment may slow travel time on rural roads. Vigilance and patience is required. Farm equipment will display a Slow Moving Vehicle emblem, a red-orange fluorescent triangle surrounded by a reflective red border, on the rear of the implement. This is a warning to slow down. Large farm equipment may extend into the oncoming traffic lane. Safety should be a top concern for all drivers on town roads, as well as the equipment operators.

7.15.7 Chemicals

Fertilizers and herbicides are often used in growing crops. These products are applied by licensed applicators. Respect for a neighbor's adjacent land is shown by knowing the prevailing winds and preventing drift.

7.15.8 Exceptions

Should the Town be presented scientific information and evidence that certain farming practices threaten the health of town residents, this section of the ordinance shall not apply to protecting those farming activities.

NOTE: Through section 823.08 of the Wisconsin Statutes, the Wisconsin Legislature has adopted a right to farm law. This statute limits the remedies of later established residential property to seek changes to pre-existing agricultural practices in the vicinity of residential property. Active agricultural operations are now taking place and may continue in the vicinity of the Town of Herman. These active agricultural operations may produce noises, odors, dust, machinery traffic, or other conditions during daytime and evening hours.

SECTION 7.16 PORTABLE STORAGE UNITS

7.16.1 Permit Required

Except for those uses specified in Subsection 7.16.2, no portable storage units shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a Zoning Permit and without being in conformity with the provisions of this Section and any other applicable provisions of this Ordinance.

7.16.2 Portable Storage Units Allowed without a Zoning Permit

(1) Disaster Relief Efforts

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

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

(2) Construction Projects

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

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

(3) Relocation Projects

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

- A. Such units must meet all rear and side yard setback requirements for the district in which they are located. Any unit located in the street/front yard must be set back at least 15 feet from the nearest road pavement edge.
- B. No portable storage unit shall be used for human habitation.
- C. Such units are limited to 90 days total in a calendar year when located in the R-1, R-2, or CMU districts.

7.16.3 Portable Storage Units Requiring a Zoning Permit

Subject to the requirements of this Subsection, as well as any applicable district requirements, portable storage units are allowed in the FP, RD, B, IM, PI, BRIP, LCD, and REC districts with the issuance of a Town of Herman Zoning Permit. No Zoning Permit is required if such a unit qualifies under Subsection 7.16.2.

- (1) Such units shall meet all rear, side, and street setback requirements for the district in which they are located, per Subsection 7.2.8.

- (2) Such units shall be of a color that blends in with the surroundings, and there shall be no labels, advertising, designs, or graffiti on the exterior.
- (3) No portable storage unit shall be used for human habitation.
- (4) No portable storage unit shall be used to store non-household hazardous materials, unless such materials are integral to the principal use of the property.
- (5) Such units shall not be stacked on each other or on any other structure or building.
- (6) The condition of such units shall not become a nuisance or safety hazard.
- (7) Any unit that appears to have been abandoned and receives written notice from the Town ordering its removal shall be permanently removed by the owner within 30 days of receiving said notice. An owner may challenge the determination of abandonment by appealing to the Town Board within 60 days of receiving said notice. If denied, the abandoned unit shall be removed within 30 days of the Town Board's decision.
- (8) The anchoring for fabric storage structures must meet manufacturer's specifications.

7.16.4 Prohibited Districts

Portable storage units are prohibited in the R-1, R-2, or CMU districts, unless such a unit qualifies under Subsection 7.16.2.

7.16.5 Road-Worthy Semi-Trailers

Semi-trailers that are still used in a transportation capacity are not included in the definition of portable storage units. Nevertheless, this Subsection hereby prohibits such semi-trailers in the R-1, R-2, or CMU districts, unless such a unit qualifies under Subsection 7.16.2.

7.16.6 Conditional Use Permit Option

Any person who wishes to exceed a limitation or forego a certain requirement listed in this Section may apply to the Town for a Conditional Use Permit. Said permit may be granted if the requirements of Section 7.4 are met and the applicant agrees to any actions described in the permit, which are intended to off-set any negative repercussions of exceeding a limitation or foregoing a requirement.

7.16.7 Existing Portable Storage Units

A portable storage unit lawfully existing at the time of the adoption or amendment of this Ordinance may be continued, regardless of district. However, such a unit is still subject to Subsections 7.16.3 (1) through (8) and shall be deemed a nonconforming use or structure, and the provisions of Section 7.8 shall apply.

SECTION 7.18 SOLAR ENERGY SYSTEMS (SES)

7.18.1 Applicability

The standards in this Section apply only to mid-scale solar energy systems as described in subsection 7.18.3 (2).

7.18.2 Purpose

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

7.18.3 Types of Solar Energy Systems and Permits Required

- (1) Large-scale SES (100 MW or more) – Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the FP and RD districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer’s agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
- (2) Mid-scale SES (less than 100 MW but greater than 30 kW) – Are subject to the conditional use permit conditions set forth in Section 7.4 and the requirements set forth in subsection 7.18.4 of this Ordinance, the Town’s building permit requirements, the County’s applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed in all districts except R-1, R-2, REC, CMU, and LCD.
- (3) Small-scale SES (30 kW or less) – Are considered to be accessory uses and are permitted uses in all districts. Such systems are allowed whether or not a principal structure exists on the parcel. A building permit from the Town is required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.

7.18.4 Requirements for Mid-Scale Solar Energy Systems

- (1) Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - A. Setbacks – Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, or septic field. Setbacks from roadways shall conform to the standards in Section 7.5 of this Ordinance. The project design shall be such that aboveground project components (excluding fences and access roads) shall not be closer than 200 feet to any nonparticipating landowner residential structure.

- B. Height restrictions – Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district’s height limit by more than 5 feet.
- C. Glare – The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
- D. Sound – The SES project’s inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.
- E. Construction hours – Hours of construction shall be between 6:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
- F. Installer – All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
- G. Foundation – A qualified engineer shall certify that the foundation and design of the solar panels racking, and support is within accepted professional standards, given local soil and climate conditions.
- H. Screening – A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
- I. Town roads – The construction, operation, and decommissioning of a SES shall not adversely impact town roads.
- J. Code compliance – A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
- K. Power and communication lines – Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
- L. Orderly development – Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.

- M. Decommissioning – When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning.
- (2) In addition to the application submittal requirements of Section 7.4 of this Ordinance, the application for a SES conditional use permit shall include the following:
- A. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.
 - B. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
 - C. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
 - D. Surrounding property uses, including distances to any adjacent nonparticipating landowner residential structures.
 - E. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.

A decommissioning plan, which shall outline the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established, and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Herman to have suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Planning & Zoning Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and town properties. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.