

TOWN OF ROSENDALE ZONING ORDINANCE

ARTICLE I. IN GENERAL

Sec. 1. Scope of Ordinance.

A. INTERPRETATION OF ORDINANCE

An Ordinance of the Town of Rosendale, Fond du Lac County, Wisconsin, to promote the health, safety, and general welfare of the Town; to regulate, restrict, and determine the areas within which agriculture, commerce forestry, residential living and recreation may be conducted; the location of roads, schools, trades, and industries, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of each lot which may be occupied, size of yards, courts and other open spaces, the density and distribution of population, and the location of buildings designed for specified uses, and establish districts of such number, shape and area as may be necessary for such purposes; and for the said purposes to divide the Town of Rosendale, Fond du Lac County, Wisconsin, into districts of such numbers, shapes and areas as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement, and to provide penalties for its violation.

B. MINIMUM STANDARDS

The provisions of this Ordinance are intended to repeal, abrogate, annul, and amend existing ordinances and establish minimum standards by which property owners will be required to comply. Concurrent ordinances not inconsistent with this ordinance shall continue to comply. Properties which were in compliance with current ordinances shall remain so long as the property remains in its current configuration and use. This Ordinance will affect any change in configuration or use of any property covered by the Ordinance. Where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings or premises, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

C. EXISTING EASEMENTS

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings or premises, or requires larger open spaces than are required by other rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Sec. 2. Districts.

A. DISTRICT DESIGNATIONS

For the purpose of this Ordinance, the Town of Rosendale is hereby divided into five (5) districts, as follows:

1. Farmland Preservation.
2. General Agricultural.
3. Rural Residential.
4. Commercial.
5. Industrial.

B. BOUNDARIES

The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Town of Rosendale Farmland Preservation Zoning Map," which map accompanies and is made part of this Ordinance. All notations and references shown on the District Map are as much a part of this Ordinance as though specifically described herein.

1. The district boundaries are streets, unless otherwise shown, and, where the designation on the District Map indicates that the various districts are approximately bounded by a street or alley line, such street line shall be construed to be the district boundary line.
2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the District Map are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district.
3. Where the district boundary lines shown on the District Map are obviously not lot lines, the district boundary lines shall be determined by use of the scale shown on the map.

Sec. 3. Definitions.

A. PURPOSE

For the purpose 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 word "shall" is mandatory and not directory.

1. **Accessory Use or Structure (building).** A use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.
2. **Alley.** A special public right-of-way affording only secondary access to abutting properties.

3. **Building.** Any structure having a roof supported by columns or walls used or intended to be used for shelter or enclosure of persons, animals, equipment, machinery or materials.
4. **Building Area (synonymous with floor area).** The total living area bounded by the exterior walls of a building at each floor level, but not including basement, garages, porches, breezeways, and unfinished attics.
5. **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.
6. **Campgrounds.** As defined in Wisconsin Administrative Code Chapter HSS178.
7. **Certificate of Compliance.** Official certification that a premise conforms to the provisions of the Zoning Ordinance and, if applicable, to a Town building code.
8. **Channel.** Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well established banks.
9. **Clinic – Medical or Dental.** A group of medical or dental offices, organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.
10. **Common Ownership.** Ownership by the same person or persons, including ownership by joint tenancy and tenancy in common.
11. **Conditional Uses.** Use of a special nature as to make impractical their predetermination as a principal use in a district.
12. **Condominium.** A structure having two (2) or more dwelling units, each assigned to individual ownership, but located on a lot having common ownership and use arrangement.
13. **Contiguous.** Adjacent to or sharing a common boundary. “Contiguous” includes land separated by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or a transportation or transmission right-of-way. Parcels are not contiguous if they meet only at a single point.
14. **Conversion.** Changing the original purpose of a building to a different use.
15. **DATCP.** An acronym for the Wisconsin Department of Agriculture, Trade & Consumer Protection.

16. **Development.** Any activity which results in an alteration of either land or vegetation, except farming and normal grading and filling, for purposes of changing to or intensifying existing uses in residential, business, recreational, institutional or industrial property.
17. **Ditching.** The creation or maintenance of a channel-like land, area designed or used for carrying surface water runoff, including snow melt, from one location to another. Ditching does not include municipal work within public right-of-way, or such things as vegetation removal or planting.
18. **Drainage.** A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied herein to surface water.
19. **Dwelling Unit.** A structure having provisions for living, sanitary and sleeping facilities, arranged for the use of one (1) or more individuals of the same family.
20. **Dwelling – Single (One) Family.** A permanent structure – placed on a permanent foundation, having one (1) or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one (1) or more individuals of the same family. The structure shall be located on a private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured, and modular homes.
21. **Dwelling – Two Family (Duplex).** A permanent structure having two (2) dwelling units combined into one structure. The structure shall be located on one (1) private lot and surrounded on all sides by a private yard. These dwellings shall include site built, manufactured and modular homes.
22. **Dwelling – Multi-family (Apartment).** A permanent structure having three (3) or more dwelling units – combined into one (1) structure – for occupancy by three (3) or more families.
23. **Excavation.** Any act by which organic matter, earth, sand, gravel, rock, or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.
24. **Family.** Any number of persons living together and cooking on the premises as a single housekeeping unit together with all necessary employees of the family.
25. **Farm.** All land under common ownership that is primarily devoted to agricultural use.
26. **Farm Residence.** Any of the following structures located on a farm:
 - (A) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 - (1) An owner or operator of the farm.
 - (2) A parent or child of an owner or operator of the farm.

- (3) An individual who earns more than 50% of his or her gross income from the farm.
 - (B) A migrant labor camp that is certified under Wis. Stat., § 103.92, as amended.
- 27. **Fence.** Any artificially constructed barrier of any materials or combination of materials erected to enclose or to screen areas of land.
- 28. **Fill/Filling.** Any act by which earth, sand, gravel, rock or any other materials are deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.
- 29. **Flood Plain.** The land adjacent to a body of water, which has been or may be hereafter, covered by floodwater.
- 30. **Frontage.** The smallest dimension of a lot abutting a public street measured along the street lines.
- 31. **Grade/Grading.** The alteration of the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- 32. **Garage (Private).** A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles, recreational vehicles, boats, yard equipment, etc., of the families residing upon the premises. Carports shall be considered garages within this definition.
- 33. **Garage (Public or Commercial).** Any garage not falling within the definition of “private garage” as herein established; and used for storage, repair, rental or servicing of motor vehicles.
- 34. **Garage (Attached).** A garage sharing a common wall with the principal structure, or being attached to the principal structure with a fully enclosed breezeway of at least ten (10) feet in length.
- 35. **Home Occupation.** Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed Twenty-Five percent (25%) of the area of any one (1) floor. A household occupation includes uses such as babysitting, millinery, dressmaking, canning, laundering, and crafts, but does not include the display of any goods.
- 36. **Kenel, Commercial and Animal Hospitals.** An establishment where animal pets are part of the actual household on the lot on which the facility is located are raised, bred or boarded and/or medically treated.

37. **Livestock.** Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
38. **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 street or alley.
39. **Modular Home.** A structure substantially constructed off-site meeting minimum provisions for dwellings and meeting all of the following criteria:
- a. Transportable in one or more sections.
 - b. Built on a permanent chassis.
 - c. Placed on a permanent foundation.
 - d. Connected to utilities (plumbing, heating, gas, electrical).
 - e. Constructed in accordance with Wisconsin Uniform Dwelling Code and identified with a Wisconsin insignia.
40. **Navigable Waters.** Means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland Ordinances required under Section 59.971, Wis. Stats., and Chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:
- a. Such lands are not adjacent to a natural navigable stream or river.
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.
41. **Nonconforming Uses or Structures.** Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto. 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.
42. **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire fence, rock gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by batching or collecting debris carried by such water.
43. **Open Space.** An unoccupied space open to the sky on the same lot as the principal structure or development which is in addition to other required yard areas and which is not used for parking or driveway purposes.

44. **Parking Lot.** A structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.
45. **Parking Space.** A graded and surfaced area of not less than one hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.
46. **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
47. **Person.** An individual, corporation, partnership, limited liability company, trust, estate, or other legal entity.
48. **Principal Use.** The main use of land or structures as distinguished from a secondary or accessory use.
49. **Private or Quasi-public Club.** An association of persons organized for some common purpose but not including groups organized primarily to render a service, which is customarily carried on as a business.
50. **Rear Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard. A corner lot shall have a rear yard opposite one of the street yards.
51. **Recreational Vehicle.** As defined in Wisconsin Administrative Code Chapter HSS178.
52. **Setback.** The required distance between the existing property boundary line and the location of any structure existing or to be constructed on a parcel.
53. **Setback Lines.** The interior limits of the minimum required yard areas of a lot between the existing property boundary line and the location of any structure existing or to be constructed on a lot.
54. **Shorelands.** Lands within the following distance from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of a floodplain, whichever distance is greater.
55. **Side Yard.** A yard extending from the street yard setback line to the rear yard or street yard of a through lot setback line of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. A corner lot shall have a side yard opposite one of the street yards.
56. **Signs.** Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trade marks by which anything is made known and which are

used to advertise or promote an individual firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway but not including:

- a. Usual board notices in or about church property or any educational or public institutions;
- b. Legal notices required to be posted by municipal, state or federal law; or
- c. Highway or traffic signs authorized to be erected by municipal, state or federal law.

57. **Sludge.** Sewage sediment that contains a heavy growth of micro-organisms, resulting from vigorous aeration, the accumulated solids resulting from biological or chemical treatment, flotation filtration or sedimentation of wastewater.
58. **Special Use.** A use that is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning district.
59. **Stable.** A building in which domestic animals are sheltered and fed, including animals not owned by the farm owner, or parents or children of the farm owner, up to a maximum of fifty (50%) percent of the animals therein.
60. **Street (Public).** The term public street includes the right-of-way of any street, road, highway, lane, etc., dedicated to the public, which generally provides access to abutting properties.
61. **Street (Private).** The term private street includes the right-of-way of any private road, highway, lane, street, access easement, etc., where the defined street or easement area provides access to more than one parcel or principal structure.
62. **Street Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between an existing or proposed public or private street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.
63. **Structure.** Any erection or construction, such as buildings, towers, masts, booms, signs, decorations, carports, machinery or equipment, and opaque fences.
- a. Structure, Accessory – A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot, or to a principal building, and located on the same lot as the principal use.
 - b. Structure, Principal – The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
64. **Surface Water Runoff.** Water which results from precipitation that is not absorbed by the soil or plant material.

65. **Temporary Sign.** Any sign that is not permanently attached to a structure or the ground and which is displayed for a maximum of ninety (90) days in one calendar year.
66. **Temporary Structure.** A movable structure neither designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.
67. **Unnecessary Hardship.** That circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.
68. **Utilities.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, gas regulation stations and sewage disposal plants, but not including municipal incinerators, warehouses, shops or storage yards.
69. **Variance.** An authorization granted by the Board of Adjustment / Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Ordinance.
70. **Wetlands.** Those areas where water is at, near or above the land surfaces long enough to support aquatic or hydrophilic vegetation and which have soils indicative of wet conditions.
71. **Yard.** An open space on the same lot with the structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.
72. **Zoning Administrator.** A person designated by the Town Chairperson to administer and enforce this Ordinance with the exception of the Uniform State Dwelling and Commercial Building Code, which shall be administered by the Building Inspector. Reference to the Zoning Administrator shall be construed to include duly appointed assistants responsible for enforcing and administering all requirements of this Zoning Ordinance.
73. **Zoning Permit.** An official finding that a proposed use of a property, as indicated by an application, complies with the requirements of the Zoning Ordinance or meets special conditions of a variance or Conditional Use Permit; the Ordinance will specify the building activities that need to have such a permit.

ARTICLE II. ZONING REGULATIONS

Sec. 1. General Provisions

A. JURISDICTION

1. The provisions of this Ordinance shall apply to all structures, land, water and air within all areas of the Town of Rosendale, Fond du Lac County, Wisconsin.

B. COMPLIANCE

1. Unless otherwise excepted in other sections of this Ordinance, no structure, land or water including manmade impoundments shall hereafter be developed and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, enlarged, extended, converted, or structurally altered without an appropriate permit. The Town Clerk or the Town Board's designee shall accept all applications, issue or deny all permits, investigate all complaints, give notice of violations, and enforce the provisions of this Ordinance.
2. Where a permit has been issued in accordance with law prior to the effective date of this Ordinance and provided that construction is begun within one (1) year of such effective date and diligently pursued to completion, said development may be completed in accordance with the approved plans on the basis on which the permit has been issued, and further may, upon completion, be occupied under a Certificate of Compliance by the use for which originally designated (subject thereafter to the provisions of this Ordinance). Any subsequent text or map amendment shall not affect previously issued valid permits.
3. The Town Building Inspector shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by the Inspector to ensure compliance with this Ordinance. If, however, the Inspector is refused entry after presentation of his/her identification, he/she shall procure a special inspection warrant in accordance with requirements of the Wisconsin Statutes.

C. BUILDING PERMIT

1. Applications for a building permit shall be made in triplicate to the Town Building Inspector on forms furnished by the Town Building Inspector and shall include the following where applicable: (*See #2*)
 - a. Name(s) and addresses of the applicant, owner of the site, architect, professional engineer, or contractor.
 - b. Description of the subject site by lot, block and recorded subdivision or by metes and bounds, references to the U.S. Public Land Survey.

- c. Address of the subject site.
 - d. Type of structure.
 - e. Existing and proposed operation or use of the structure or site.
 - f. Number of employees if applicable.
 - g. The zoning district within which the subject site lies.
 - h. A plot plan provided by the applicant showing the location, property boundaries, dimensions, uses and size of the following: subject site(s); existing and proposed structures; existing and proposed sanitary facilities and well; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed yards; finished grades and grades of adjacent structures; and a surface water drainage plan where required by this Ordinance.
 - 1) Proposed finish grade for the principal structure shall be a grade twelve (12) inches above the crown of the road at the center of the said structure, or
 - 2) Where an alternative elevation would better suit the existing or proposed uses surrounding the site, the Town Building Inspector shall have authority to set an alternative finished grade elevation pending review of the surface water drainage plan as required by this Ordinance. Said alternative grade shall be noted on the building permit by the Building Inspector.
 - 3) Amended site plans will be accepted without penalty up to six (6) months from the date of the original permit issuance. After the six (6) month period, a modification shall require a new permit application and fee payment.
 - i. Any other information required by the Town's building permit application form.
2. A building permit shall be granted or denied in writing by the Town Building Inspector within thirty (30) days of filing. However, where public sewer is not available, a zoning permit shall not be issued prior to approval of sanitary plans and issuance of a Sanitary Permit by the County Sanitary Inspector. Furthermore, no building permit shall be issued for any addition, reconstruction, enlargement or conversion of a principal structure where sanitary facilities are not provided in accordance with the Fond du Lac County Sanitary Ordinance and Chapter ILHR 83 of the Wisconsin Administrative Code, as amended. (Barns, silos, etc. as

principal uses in the FP Farmland Preservation District are exempt from sanitary facilities requirements.)

3. The building permit shall consist of a weatherproof card that shall be posted continuously at the construction site during the period of construction. The permit shall be posted in a conspicuous manner, unobstructed from public view, and not more than ten (10) feet above grade.

NOTE: The building permit shall expire within one (1) year of issuance unless substantial work has commenced and has been diligently pursued. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

4. Permits issued as a result of a violation notice or citation may condition approval by addressing time limits for construction as well as requirements dealing with the original complaint.

D. CERTIFICATE OF COMPLIANCE

1. Where a building permit is hereafter required according to this Ordinance, no development or structure shall be used or occupied until a Certificate of Compliance has been issued by the Town Building Inspector. Such certificate shall show that said development or structure is in compliance with the applicable standards of this Ordinance.
2. Application for a building permit shall be deemed an application for a Certificate of Compliance.
3. Upon written request from the owner, the Building Inspector shall issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Ordinance.
4. A Certificate of Compliance must first be obtained before the use of, or change in use of any nonconforming use.

E. SITE RESTRICTIONS

1. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Town of Rosendale Town Board of Plan Commission 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, aesthetics, and general welfare of the Town of Rosendale.
2. "Aesthetics" may only constitute grounds from prohibiting the use if such will substantially depreciate the value of property in the neighborhood or impose a

visual effect upon neighbors or passersby, which is clearly obnoxious to the prevailing taste of the community. In all cases, the Town Plan Commission shall serve as the Aesthetic Review Board.

3. Requirements of all land use sites:
 - a. All lots shall abut upon a public street, and each lot shall have a minimum frontage, according to the zoning district. All lots shall also have a minimum width at the street yard setback as prescribed for the particular zoning district in which the lot is located.
 - b. All principal residential structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot.
 - c. No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.
 - d. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting districts. The street yards in the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary line so as to equal the average of the street yards required in both districts.
 - e. All street yards shall be measured by the greater of the distance from either the affected public or private street or from any road widths shown on a duly adopted street width map.

F. USE RESTRICTIONS

The following restrictions and regulations shall apply:

1. Permitted Uses. Only those permitted uses specified for a district, their onsite services and the following uses and conditions specified below shall be permitted in that district, except gardening shall be a permitted use in all districts.
2. Accessory Uses. Unless otherwise specified in other sections, accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of business, trade or industry except as specifically authorized elsewhere in this Ordinance. Accessory uses include incidental repairs, storage, parking facilities, servants', owners', itinerant agricultural laborers', and watchman's quarters not for rent; private swimming pools; and private emergency shelters. Accessory use residential quarters shall be contained within the principal structure. This subsection shall not apply to the agricultural accessory uses in the FP Farmland Preservation District.

3. Accessory Use Location. Unless otherwise specified in other sections, accessory uses and detached accessory structures are permitted within the buildable area or in the yard only; they shall not be closer than ten (10) feet to the principal structure; shall not exceed eighteen (18) feet in height; shall not be closer than ten (10) feet to any lot line.
 4. Conditional Uses.
 - a. Conditional uses and their accessory uses require approval and a public hearing if there is approval, all in accordance with this Ordinance.
 - b. In addition to those stated elsewhere in this Ordinance, the following shall be conditional uses in all zoning districts of this Ordinance.
 - 1) Utilities and Associated Structures. Provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line.
 5. Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Town Board.
 6. Animal Restriction. Unless otherwise specified, no premises in a residential district shall be used to harbor more than two dogs. Puppies whelped on any such premises as a result of fortuitous mating may be retained on the premises until they are six (6) months old and shall not be taken account of in determining the number not in excess of two (2) dogs herein above permitted on such premises. No premises in a residential district shall be used for breeding or rearing of dogs for sale or hire or for the boarding of dogs for pay.
 7. Utilities. Telecommunications/Electronic switching equipment buildings no larger than twelve 12' x 22' are permitted in all districts, except that these buildings are only permitted in the FP Farmland Preservation District and GA General Agricultural District if they meet the standards in Wis. Stat., § 91.46(4).
 8. Tractor Pulls. Tractors pulls or similar exhibition pulls may be allowed by the Town Board in any district if a Public Celebration Permit has been first granted.
- G. **SANITARY REGULATIONS.** See Fond du Lac County Sanitary Ordinance; Chapters ILHR 83; H65 and NR112 of the Wisconsin Administrative Code.
- H. **VIOLATIONS**
1. It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance.

2. In case of violation, the Town Board, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance.
3. If the Town Board or Town Plan Commission shall determine at any time that the Ordinance, laws, orders, plans and specifications are not being complied with, or where work is being done without a valid permit, a stop work order shall be posted at the site of the work. When such order has been posted, it shall have the effect of causing the original permit to be revoked and in all case, it shall be unlawful for any further work to proceed until the permit is either issued or reinstated. It shall further be unlawful to remove such stop work order without the direct authorization of the Town Building Inspector.

I. PENALTIES

1. Any person, firm or corporation who fails to comply with the provisions of this Ordinance or any order of the Town Building Inspector issued in accordance with this Ordinance or resists enforcement shall, upon conviction thereof, forfeit not less than two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) and costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

J. FEES

1. Fees for permits and hearing items shall be as established from time to time by the Town of Rosendale Town Board.

Sec. 2. Rural Residential District.

A. PURPOSE.

1. The purpose of this District is to maintain the character of existing residential areas and to provide for areas of the Town where residential development may be established as a primary use.

B. PERMITTED USES.

1. Single-family dwellings.
2. Two-family dwellings.
3. Home occupations.
4. Community living arrangements.

C. CONDITIONAL USES.

1. Multi-family dwellings.
2. Clubs or meeting lodges.
3. Bed and breakfast establishments.
4. Condominium developments.
5. Cluster developments.
6. Elementary schools.
7. Secondary schools.
8. Parks/playgrounds.
9. Religious or charitable organizations.
10. Government buildings.
11. Stables.
12. Harboring animals other than household pets for personal use or hobby purposes.

D. DIMENSIONAL STANDARDS.

1. Minimum Lot Size:

- i. 1 acre for all uses.

2. Setbacks:

i. Dwellings:

1. 50 feet front yard from road centerline unless a greater distance is required by law.
2. 25 feet side yard.
3. 10 feet rear yard.

ii. All other structures.

1. 50 feet front yard from road centerline unless a greater distance is required by law.
2. 20 feet side yard.
3. 10 feet rear yard.

3. Maximum Building Height:

- i. 45 feet.

4. Minimum Road Frontage:

- i. 66 feet.

5. Minimum Lot Width:

- i. 150 feet.

E. **ADDITIONAL STANDARDS.**

1. Fences will be permitted on the property line except that no fence shall be located within any right-of-way. No fence shall exceed six (6) feet in height.
2. Outdoor lighting installations shall be permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon adjoining properties.

Sec. 3 Farmland Preservation District.

A. **PURPOSE .**

1. The purpose of this District is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development, minimizing land use conflicts among incompatible uses, and minimizing public service and facility costs normally associated with non-agricultural development. This District is intended to comply with the standards contained in Chapter 91 of the Wisconsin Statutes to permit eligible landowners to receive tax credits and includes lands identified for agricultural preservation in the Fond du Lac County Farmland Preservation Plan.

B. **PERMITTED USES.**

1. **Agricultural Uses:** Any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. Crop or forage production.
 - b. Keeping livestock.
 - c. Beekeeping.
 - d. Nursery, sod, or Christmas tree production.
 - e. Floriculture.
 - f. Aquaculture.
 - g. Fur farming.
 - h. Forest Management.
 - i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
 - j. Any other use that DATCP, by rule, identifies as an agricultural use.
2. **Accessory Uses:** Any of the following land uses on a farm:

- a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use, including, but not limited to:
 - (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (4) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (5) 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.
 - (6) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - b. An activity or business operation that is an integral part of, or is incidental to, an agricultural use.
 - c. Farm residences, provided that:
 - (1) No more than two farm residences may be present on any lot, and
 - (2) Farm residences on the same lot must be separated by at least 50 feet.
 - d. A business, activity, or enterprise whether or not associated with an agricultural use, that is conducted by the owner or operator of the farm, that requires no buildings, structures, or improvements other than those described in sections 2.a. and 2.c., that employs no more than four full-time employees annually, and that does not impair or limit the current or future use of the farm or of other protected farmland.
 - e. Any other use that DATCP, by rule, identifies as an accessory use.
- 3. Undeveloped natural resource and open space areas.
 - 4. A transportation, utility, communication, or other use that 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.

C. CONDITIONAL USES.

- 1. Agricultural-related uses:

- a. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
 - b. Any other use that DATCP, by rule, identifies as an agricultural-related use.
2. Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
- a. The use and its location in the FP Farmland Preservation District are consistent with the purposes of the FP Farmland Preservation District.
 - b. The use and its location in the FP Farmland Preservation District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. 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.
 - d. 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.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
3. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
- a. The use and its location in the FP Farmland Preservation District are consistent with the purposes of the FP Farmland Preservation District.
 - b. The use and its location in the FP Farmland Preservation District area are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. 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.
 - d. 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.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

4. Nonmetallic mineral extraction if all of the following apply:
 - a. 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. § 295.13 or Wis. Stat. § 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic sites.
 - b. The operation and its location in the FP Farmland Preservation District are consistent with the purposes of the FP Farmland Preservation District.
 - c. The operation and its location in the FP Farmland Preservation District are reasonable and appropriate, considering alternative locations outside of the district, or are specifically approved under state or federal law.
 - d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - e. 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.
 - f. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
5. Oil and gas exploration or production that is licensed by the department of natural resources under Subchapter II of Chapter 295, Wisconsin Statutes.

D. PROHIBITED USES.

1. Center-pivot manure distribution systems.

E. DIMENSIONAL STANDARDS.

1. Minimum lot size: 1 acre for all permitted uses; minimum lot sizes for conditional uses shall be as specified in the applicable conditional use permit.
2. Minimum side yard setback: 25 feet for dwellings; 20 feet for all other structures.
3. Minimum rear yard setback: 10 feet.
4. Minimum road frontage: 66 feet.
5. Minimum road setback: 50 feet from road centerline unless a greater distance is required by law.

6. Minimum lot width: 150 feet measured at the front face of the structure nearest the road.

F REZONING LAND OUT OF THE FP FARMLAND PRESERVATION DISTRICT.

1. The Town may rezone land out of the FP Farmland Preservation District if the Town finds all of the following, after a public hearing:
 - a. The land is better suited for a use not allowed in the FP Farmland Preservation District.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the Fond du lac County Farmland Preservation Plan.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
2. If a proposed rezoning also involves the dividing of a parcel from a larger agricultural lot, the Town will consider the impact the rezoning will have on the remaining agricultural land on the original lot, including whether there are alternate portions of the original lot that would be more suitable for non-agricultural use than the portion proposed for rezoning.
3. By March 1 of each year, the Town will provide DATCP a report of the number of acres that the Town rezoned out of the FP Farmland Preservation District during the previous year along with a map that clearly shows the location of those acres. The Town will also submit a copy of that report to Fond du Lac County by March 1 of each year.

Sec. 4. General Agricultural District.

A. PURPOSE.

1. The purpose of this District is to maintain open land areas predominantly devoted to farming and agricultural-related uses. It is anticipated that while certain areas within this District will eventually be used for non-agricultural purposes, the intensity of development will remain significantly limited.

B. PERMITTED USES.

1. All uses identified as permitted uses in the FP Farmland Preservation District.

C. CONDITIONAL USES.

1. All uses identified as conditional uses in the FP Farmland Preservation District.
2. Elementary schools.
3. Secondary schools.
4. Arboretums.
5. Cemeteries.
6. Parks/playgrounds.
7. Campgrounds.
8. Exposition and fairgrounds.
9. Sports fields.
10. Archery or firearm ranges.

F. PROHIBITED USES.

1. Center-pivot manure distribution systems.

G. DIMENSIONAL REQUIREMENTS.

1. Minimum lot size:

- i. 1 acre for all permitted uses; minimum lot sizes for conditional uses shall be as specified in the applicable conditional use permit.

2. Minimum side yard setback:

- i. 25 feet for dwellings; 20 feet for all other structures.

3. Minimum rear yard setback:

- i. 10 feet.

4. Minimum road frontage:

- i. 66 feet.

5. Minimum road setback:

- i. 50 feet from road centerline unless a greater distance is required by law.

6. Minimum lot width:

- i. 150 feet measured at the front face of the structure nearest the road.

Sec. 5 – Commercial District.

A. PURPOSE.

1. The purpose of this District is to provide for retail and customer service establishments that will serve the daily needs of local residents. The physical location and arrangement of these facilities should be laid out so as to orient themselves to the local residential population to be served while remaining compatible in appearance and character with the area.

B. PERMITTED USES.

1. Bakery.
2. Barber shop and beauty parlor.
3. Lunchroom, candy store, confectionery store, ice cream store, soda fountain, soft drink stand.
4. Drug store, pharmacy.
5. Food products (retail), grocery store (retail), delicatessen (retail), meat & fish market (retail), fruit & vegetable store (retail), tea & coffee store (retail), package liquor (retail), beer depot (retail).
6. Retail cleaners & dryers.
7. Coin operated cleaning & washing.
8. Marinas and aquatic nurseries.
9. Billboards and poster boards.
10. Taverns.
11. Private clubs or lodge.
12. Art shop, gift shop.
13. Music store, radio store.
14. Newsstand.
15. Photographer's studio.
16. Professional services, real estate, insurance.
17. Hobby goods stores, kennels.
18. Interior decorating studios, picture framing.
20. Shoe repair, appliance repair stores.
21. TV repair, appliance repair stores.
22. Furniture upholstering, refinishing and repair.
23. Jewelry store, optical store.
24. Bank.
25. Book and stationery store.
26. Bowling alley, pool and billiard room, dancing school, dance hall, skating rink, theater except drive-in theater.
27. Clinic or medical or dental office building.
28. Dress shop, shoe store, clothing store, dry goods store, notion store, hosiery shop, tailor shop.
29. Drive-in restaurants.
30. Florist shop.
31. Restaurant, refreshment stand.

32. Motels and hotels.
33. Telegraph and telephone office.
34. Tobacco and pipe store.
35. Retail monument sales.
36. Hardware and paint store.
37. Household appliance store, furniture store, plumbing, heating and electrical supplies, crockery store.
38. Printing and engraving establishments.
39. Automobile sales and service establishments.
40. Truck or transfer terminal, freight house, or bus garage or repair shop.
41. Wholesale or distributing establishment or warehouse or wholesale market.
42. Repair service and assembly of vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles.
43. Storage and warehousing of fuel and materials and contractor's yards in accordance with State Regulations.
44. Manufacturing operations that are confined to the interior of a single structure and employ no more than ten employees (including full and part-time) at the site.

C. CONDITIONAL USES.

1. Funeral homes.
2. Gymnasiums.
3. Golf courses.
4. Campgrounds.
5. Race tracks.
6. Exposition and fairgrounds.
7. Sports fields.
8. Uses substantially similar to permitted uses in the Commercial District but not specifically enumerated.

D. DIMENSIONAL STANDARDS.

1. Minimum Lot Size:
 - i. 1.5 acres for all uses.
2. Setbacks:
 - i. Dwellings:
 1. 50 feet front yard from road centerline unless a greater distance is required by law.
 2. 25 feet side yard.
 3. 10 feet rear yard.

ii. All other structures.

1. 50 feet front yard from road centerline unless a greater distance is required by law.
2. 20 feet side yard.
3. 10 feet rear yard.

3. Maximum Building Height:

- i. 45 feet.

4. Minimum Road Frontage:

- i. 66 feet.

5. Minimum Lot Width:

- i. 150 feet.

E. ADDITIONAL STANDARDS.

1. Where commercially zoned property abuts public or residential property, a solid wood fence may be required by the Town to be placed in the side or rear yard at a maximum height of ten feet.
2. Outdoor lighting installations are permitted on all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
3. Residential quarters are permitted within the business structure providing the occupant is an owner, manager or caretaker of the business. Residential quarters must be less than fifty percent (50%) of the square footage of the business structure. Only one such residential quarters is allowed per business or group of businesses under one common ownership.

Sec. 6 – Industrial District.

A. PURPOSE.

1. The purpose of this District is to accommodate rural industrial development in areas that are well-served by the transportation system and to provide buffering techniques that will minimize conflict with adjacent land uses.

B. PERMITTED USES.

1. General, clerical and professional office.
2. Research and testing laboratories, schools and training centers.
3. Cleaning, pressing and dyeing establishments.
4. Commercial greenhouses.
5. Wholesalers and distributors.
6. Food locker plants, cold storage warehousing, etc.
7. Light industrial plants such as are required for production of millwork, machine tools, paper containers, light metal fabrication, and similar small industries.
8. Manufacturing, fabrication, packing, packaging, processing and assembly of confections, cosmetics, electrical appliances, electronic devices, foods, instruments, jewelry, pharmaceuticals, tobacco and toiletries.
9. Manufacturing and bottling of non-alcoholic beverages.
10. Painting, printing, publishing establishments.
11. Commercial bakeries and trade and contractor's offices.
12. Freight yards, freight terminals, trans-shipment depots, but no garbage transfer stations shall be permitted.
13. Inside storage warehouses.
14. Vehicle shops, body shops, vehicle wholesale and auction centers, but not including the storage of junked or wrecked vehicles.
15. Salvage yards.

C. CONDITIONAL USES.

1. Uses substantially similar to permitted uses in the Industrial District but not specifically enumerated.

D. DIMENSIONAL STANDARDS.

1. Minimum Lot Size:

- i. 1.5 acres for all uses.

2. Setbacks:

i. Dwellings:

1. 50 feet front yard from road centerline unless a greater distance is required by law.
2. 25 feet side yard.
3. 10 feet rear yard.

- ii. All other structures.

1. 50 feet front yard from road centerline unless a greater distance is required by law.
2. 20 feet side yard.
3. 10 feet rear yard.
3. Maximum Building Height:
 - i. 45 feet.
4. Minimum Road Frontage:
 - i. 66 feet.
5. Minimum Lot Width:
 - i. 150 feet.

F. ADDITIONAL STANDARDS.

1. Where commercially zoned property abuts public or residential property, a solid wood fence may be required by the Town to be placed in the side or rear yard at a maximum height of ten feet.
2. Outdoor lighting installations are permitted on all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
3. Residential quarters are permitted within the business structure providing the occupant is an owner, manager or caretaker of the business. Residential quarters must be less than fifty percent (50%) of the square footage of the business structure. Only one such residential quarters is allowed per business or group of businesses under one common ownership.

Sec. 7 – Sign Regulations

- A. PURPOSE. The purpose of this Section is to protect the public health, safety, and general welfare by:
1. Promoting well maintained and attractive signage within the Town;
 2. Providing for adequate business identification, advertising, and communication; and
 3. Protecting the safety and efficiency of the Town’s transportation network by reducing confusion or distractions to motorists and enhancing motorists’ ability to

see pedestrians, obstacles, other vehicles and official traffic signs, signals, or devices by minimizing the proliferation of messages for the motorist.

- B. **PERMIT REQUIRED.** No off-premise sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, except that temporary signs may be placed in a location for up to one calendar month without a permit. On premise signs do not require a building permit provided they meet the requirements of this Ordinance.
- C. **SIGN SIZE.** In the Rural Residential District, no sign may exceed thirty-two square feet in size on any face of the sign. In all other districts, sign may exceed one hundred square feet in size on any face of the sign.
- D. **SIGN LOCATION.** No sign may be placed within road right of way or within a vision triangle.
- E. **VEHICLE SIGNAGE.** Vehicles, including semi-trailers, campers, buses, automobiles, and other similar vehicles, which have attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertising of products or directing people to a business activity located off-premises shall not be parked on private property or a public right-of-way so as to be seen from a public right-of-way.

Sec. 8 – Special Use Regulations

A. SPECIAL USE PERMITS

1. Certain special uses may be permitted in certain districts under certain conditions as a result of a special use permit being granted by the Town Board after referral to the Town Plan Commission for recommendation.
2. In granting a special permit the Town Board shall take into consideration, in addition to specific conditions delineated herein, the effect of the proposed use upon neighborhood character, traffic, public utilities, public health, public safety, general welfare, adequate light, pure air, and safety from fire and other damages, the conservation of the taxable value of the land and buildings throughout the Town and the avoidance of congestion in the public streets and highways.
3. The request for a special permit shall be accompanied by plans, detailed to scale, indicating the location and plan of operation for the intended use.
4. Uses for which special permits may be secured, conditions that must be observed, and districts in which use will be allowed are:
 - a. Use: Spreading of Sludge. Allowable in the FP Farmland Preservation and GA General Agricultural Districts.

- (1) Applicant shall file its application under this Subsection with the Town Clerk or Zoning Administrator and attach thereto the following:
 - (a) A copy of the equivalent application to the State, including a contour map.
 - (b) A copy of the applicable permit from the State.
 - (c) A map showing the various types of soils.
- (2) Applicant shall comply with all applicable Wisconsin State Administrative Code provisions, now or hereafter adopted and promulgated.
- (3) The pH of the soil and sludge mixture shall be 6.5 or greater at the time sludge is landspread and shall be maintained at 6.5 or greater.
- (4) All sludge other than liquid sludge shall be incorporated within eight (8) hours of spreading except only if rain occurs unexpectedly in which case it shall be incorporated as soon as reasonably possible but not to exceed seventy-two (72) hours, soil conditions permitting.
- (5) Liquid sludge shall be incorporated within four (4) hours of spreading except only if rain occurs unexpectedly in which case it shall be incorporated as soon as reasonably possible but not to exceed seventy-two (72) hours, soil conditions permitting.
- (6) The sludge spreading vehicle shall operate only under its own power.
- (7) Sludge shall be dumped or spread only between 7:00 A.M. and 7:00 P.M.; all incorporation or injection shall be accomplished by 7:00 P.M. on the day it is dumped or spread.
- (8) Sludge shall be landspread in a manner to prevent surface water runoff and to control objectionable odors.
- (9) The liquid sludge spreading vehicle shall be moving forward at all times while sludge is being spread.
- (10) Liquid sludge shall be injected on sites with slopes between six percent (6%) and twelve percent (12%) in order to prevent runoff.
- (11) No sludge may be applied when the ground is frozen.

- (12) No sludge may be landspread on slopes greater than twelve percent (12%).
- (13) The sludge shall be applied to the approved site at a rate consistent with the crop nitrogen fertilizer recommendations and shall not exceed annual cadmium limits set forth in Ch. NR204, Wis. Adm. Code.
- (14) Sludge may not be applied if high groundwater level or depth to bedrock is less than three (3) feet unless it is demonstrated that the soil has an available water capacity greater than five (5) inches above the high groundwater or bedrock.
- (15) Sludge cannot be landspread in wetlands or in areas subject to flooding (Flood Plain Area) or ponding.
- (16) Sludge may not be applied within two hundred (200) feet of the nearest private water supply well and one thousand (1,000) feet of the nearest public water supply well.
- (17) Sludge may not be applied within two hundred (200) feet of a residentially zoned district or within three hundred (300) feet of a residence.
- (18) Sludge may not be applied within fifty (50) feet of any stream, pond or other channelized waterway; nor within twenty-five (25) feet from a dry run or wetland.
- (19) In the event of a violation of any of these conditions, the Town Board shall (1) Notify the applicant of the alleged violation in writing, and (2) Call a meeting of the complainant, the alleged violator, and the Town Board to review the alleged violation. If it is determined a violation has occurred and the violation is not corrected at the direction of the Town Board, then the Town Board shall have the right to summarily suspend the permit on a temporary or permanent basis by written notice thereof, subject, however, to a subsequent and timely public hearing before the Town Board, to be held upon request of the applicant, at which time the reinstatement, further suspension, or revocation of the permit shall be considered. The provisions contained in Article II Sec. 1 of this Zoning Ordinance pertaining to penalties for violations of the Zoning Ordinance are in addition to this provision.

Sec. 9 – Conditional Use Regulations

- A. APPLICATION AND NOTICE OF HEARING. Application for a Conditional Use Permit shall be made in duplicate to the Town Board on forms furnished by the Town Clerk or the Town Zoning Administrator for referral for recommendation to the Town Plan Commission and shall include the following:
1. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
 2. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 3. Additional information may be required, such as ground surface elevations, basement and first floor elevations, utility elevations, roads, contours, historic and probable future flood water elevations, areas subject to inundation by floodwaters, depths of foundation, flood-proofing measured, soil types, slope, boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its effects on flood flows.
 4. Public hearing shall follow an application for a Conditional Use Permit. The Town Board shall fix a reasonable time and place for a public hearing on the application and give public notice thereof in accordance with the applicable requirements of the Wisconsin Statutes.
 5. Fee Receipt from the Town Clerk or Zoning Administrator.
- B. REVIEW AND APPROVAL
1. Town Action.
 - a. The Town Plan Commission shall hold the scheduled public hearing and shall then indicate its position with regard to granting, denying, granting in part or conditionally approving the application. The following shall be taken into consideration with regard to granting, denying, granting in part or conditionally approving the application:
 - (1) At a minimum, address duly adopted Comprehensive Plans, or plan elements, adopted Ordinances if any, compatibility or non-compatibility with adjacent uses, specific substantiated objections (if any), plus any other specific finding deemed appropriate for the matter at hand.

- b. In those cases where this Ordinance required the Town to request a recommendation of a State agency or other planning agency prior to taking action, the approval or disapproval of the request for such a proposed conditional use shall be extended until the meeting at which time the Town Board finally acts on the application based on the information that they receive from the State agency or other planning agency.
- c. Standards in Reviewing Conditional Uses. In reviewing the proposed conditional uses, the Town Plan Commission and Town Board shall be guided by the following standards and requirements:
 - (1) All conditional uses must be in accordance with the purpose and intent of this Ordinance and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town.
 - (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
 - (3) Conditions, such as landscaping; architectural design; type of construction; construction commencement and completion dates; sureties; lighting; fencing; location, size, and number of signs; water supply and waste disposal systems; higher performance standards; street dedication; certified survey maps; flood-proofing; ground cover; diversions; silting basins; terraces, stream bank protection; planting screens; operational control; hours of operation; improved traffic circulation; deed restrictions; highway access restrictions; increased yards; additional parking may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and the intent of this Ordinance and the State Water Resources act of 1965, and to met the provisions of the State’s Flood Plain and Shoreland Management Programs.
- d. Compliance with all provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, performance standards, shall be required of all conditional uses. Variance shall only be granted as provided in Art. III of this Ordinance.

C. **DECISION AND EXPIRATION OF USE**

1. The Town Plan Commission shall deny, approve or give conditional approval on all applications within forty (40) days of the public hearing. In those cases, where conditional approval has been granted, the Town Board shall finalize action within ninety (90) days of the public hearing.
2. Conditional uses or temporary uses so granted, shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.
3. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a flood plain or shoreland area shall be transmitted by the County Planning and Zoning Committee to the State Department of Natural Resources.

Sec. 10 – Off-Street Parking Regulations

- A. **OFF-STREET PARKING REQUIREMENTS.** In all district there shall be provided at the time any building or structure is erected or structurally altered sufficient off-street parking to accommodate the use of the building or structure, as determined by the Town Board.

Sec. 11 – Nonconforming Uses, Structures & Lots

- A. **EXISTING NONCONFORMING USES & STRUCTURES**

A lawful nonconforming structure or use shall begin as of the time it was made nonconforming by the terms of a preceding Ordinance, this Ordinance or an amendment to this Ordinance. The lawful nonconforming use of a structure, land, or water, or a lawful nonconforming structure existing at the time of adoption or amendment of this Ordinance may be continued even though the structure or use does not conform with the provisions of this Ordinance.

1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required by law or order or so as to comply with the provisions of this Ordinance.
2. If a nonconforming structure is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure can be restored to the size, use, and location it had immediately before the damage or destruction occurred or to a larger size if necessary to comply with applicable state or federal requirements.
3. Substitution of new equipment may be permitted by the Board of Adjustment / Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

4. Alterations or additions which change the exterior dimensions of the structure, and which do not conform to this Ordinance but which do not increase dimensional nonconformity beyond that which existed before the work commenced, are allowed. Once the square footage or value method has been chosen it must be followed for the rest of the life of the structure.

B. ABOLISHMENT OR REPLACEMENT

1. If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance.

C. CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back 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 Adjustment / Appeals.

ARTICLE III – PLAN COMMISSION

Sec. 1 – Plan Commission

A. HOW APPOINTED AND TERM

The Plan Commission members shall be appointed by the Town Chairman subject to approval by the Town Board and shall consist of five (5) members. Not more than one (1) Town Board member shall serve on the Plan Commission. Upon creation of the Plan Commission two (2) members shall be appointed for three (3) years, two (2) members shall be appointed for two (2) years and one (1) member shall be appointed for one (1) year. Thereafter, each appointment of a member shall be for three (3) years. Two (2) alternates shall also be appointed for a three (3) year term. This Commission was previously referred to in prior ordinances as the Plan Commission. Therefore, any references in any Ordinance of the Town of Rosendale regarding Planning & Zoning Committee shall not be interpreted as the Plan Commission.

B. DUTIES

1. The duties and functions of the Plan Commission shall be as prescribed Wis. Stat. § 62.23.
2. The Plan Commission may employ expert advice and may have maps showing proposed additions to or change in the plan of the Town.

3. The Plan Commission shall have such further powers and duties as are prescribed in Chapter 62 of the Wisconsin Statutes.

C. COMPENSATION

The members shall be compensated in a manner and method designed by the Town Board.

D. QUORUM

Three (3) members, present and voting, shall constitute a quorum.

ARTICLE IV – BOARD OF APPEALS

A. CREATION OF BOARD OF APPEALS

1. The Board of Appeals shall consist of five (5) members appointed 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 be compensated in a manner and method designed by the Town Board. The Board shall designate one (1) of the members as chairman. The Town Board shall appoint two (2) alternate members 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 conflict of interest or in a member's absence. Vacancies shall be filled by the Town Chairman for the unexpired terms of members whose terms become vacant. Four (4) members present and voting shall constitute a quorum of the Board of Appeals.
2. Rules of Procedure. The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the chairman and at such times as the Board of Appeals may determine. The chairman, or in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
3. Records and Minutes. The Board of Appeals shall keep minutes of its proceedings, showing the action taken upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filled in the office of the Board of Appeals and shall be public record.
4. Appeals Procedure. Appeals to the Board of Appeals may be taken by any person aggrieved or affected by any decision of the Building Inspector and/or the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the officers with whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the

action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing 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.

B. POWERS OF THE BOARD OF APPEALS

1. Hear Appeals. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Inspector or Zoning Administrator, in the enforcement of this Ordinance.
2. Authorize Variances. 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, a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public health, safety and welfare secured, and substantial justice done.
3. Extend Districts. To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of the passage of this Ordinance.
4. Interpret Ordinance. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing several districts accompanying and made part of this Ordinance where the street layout on the ground varies from the street layout as shown on the map aforesaid.
5. Vary Height and Area Regulations. Vary height and area regulations where there is an exceptional or unusual physical condition of a lot, which condition is not generally prevalent in the neighborhood and which condition when related to the height and area regulations of this Ordinance would present a reasonable or sensible arrangement of buildings on the lot.
6. Vary Parking Regulations. Vary the parking regulations where an applicant demonstrates conclusively that the specific use of a building would make unnecessary the parking space required by this Ordinance but providing that such a reduction not be more than twenty-five percent (25%) of the usual requirement.
7. Powers of Board Limited. The Board of Appeals has no other powers than those specified.

C. PUBLIC HEARING AND PERMITS ISSUED BY THE BOARD OF APPEALS

1. When Board to Take Action; Notices. The Board of Appeals shall take no action except in a specific case and after public hearing conducted by such Board. Notices of the time and place of such public hearing shall be posted at the Post Office, the Town Hall, and at some point on or near the site. Notices shall be sent to interested parties as determined by the secretary of the Board of Appeals.

There shall be at least a three (3) day period between the time of posting and the time of the meeting excluding the day of posting. Such notice shall contain the particular address or location of the property for which the variation or other ruling by the Board of Appeals is being sought, as well as a brief description of the nature of the appeal, and of what the proposed variance consists.

2. Duration of Board Orders; Building Permit. No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
3. Duration of Board Order; Establishment of Use; Exception. No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than six (6) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
4. Disposition of Appeal by Board. The Board of Appeals may reverse or affirm wholly or in part or may modify any 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 Building Inspector or Zoning Administrator. 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 effect any variation in the requirements of this Ordinance. 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.
5. Fee. No appeal requesting a variance shall be accepted unless accompanied by a fee equal to the sum of expenses which the Town will incur for payment to the members of the Board according to the fee schedule from time to time in effect.

D. AMENDMENT PROCEDURE FOR CHANGING BOUNDARIES AND REGULATIONS

1. The Town Board may from time to time on its own motion or on petition after first submitting the proposal to the Plan Commission, amend, supplement, or change the district boundaries or the regulations herein or subsequently establish upon giving at least ten (10) days' notice, by publication in the official paper at least three (3) times during the preceding thirty (30) days of the proposed amendment, supplement or change of hearing thereon, an opportunity to any person interested to be heard.

2. No petition requesting a change of a zoning district as established by the district map, which is made part of this Ordinance, shall be accepted for filing by the Clerk or Zoning Administrator unless accompanied by the sum in current effect to reimburse the Town for its expense in processing said petition.

ARTICLE V – SPECIAL PROVISIONS

Sec. 1 – Mineral Extraction Provisions

- A. **STATEMENT OF INTENT.** The intent of this district is to permit resource extraction operations as long term transitional uses. The intent of these regulations is to minimize potential adverse effects of these uses on adjacent lands while operations are active and to restore the site of operations to the maximum extent practicable after operations have been ceased.
- B. **PERMITS.** An “Extraction Permit” is required for all mineral extraction operations including those lawfully existing prior to the adoption of this section. New mineral extraction operations and expansions of lawfully existing operations shall adhere to conditional use procedures as described in Art. II, S. 19 of this Ordinance. As such, all mineral extraction operations including those lawfully existing prior to the adoption of this section shall adhere to the following permit requirements:
 1. No permit shall be issued without submittal of a plan of operation and a plan of reclamation in compliance with the standards and requirements of this section.
 2. Any mineral extraction operation or activity conducted without a permit after one hundred eighty (180) days of the effective date of adoption of this section shall be deemed in violation of this Ordinance.
 3. Permits shall be issued for terms of six (6) years, renewable for terms of six (6) years. Any activity conducted in compliance with a lawfully issued permit which subsequently becomes non-compliant during the term of the permit by reason of surrounding development may continue for the remainder of the term of the permit.
 4. **Transfer of the permit.** When an operator succeeds to the interest of another in an uncompleted site, the Town shall release the present operator of the responsibilities imposed by the permit only if:
 - a. Both operators are in compliance with the requirements and standards of this section, and
 - b. The new operator assumes the responsibility of the former operators permit requirements.

C. STANDARDS. The following standards shall apply to all mineral extraction operations and activities including those operations and activities lawfully existing prior to the adoption of this Ordinance.

1. Standards of Operations.

- a. Provisions of Ch. NR 415.04 and Ch. NR 429, Wis. Adm. Code, regarding air quality emissions shall be administered by the Wisconsin Department of Natural Resources. Provisions of Ch. ILHR 7.60 et seq., Wis. Adm. Code, regarding blasting shall be administered by the Wisconsin Department of Industry, Labor and Human Relations.
- b. Roads, machinery and equipment shall be located, constructed and used in such a manner as to minimize noise, dust and vibrations.
- c. No operations or activities may be commenced before 6:00 a.m. Monday through Saturday or continue past 6:00 p.m. Monday through Friday or 2:00 p.m. on Saturday where any residence or commercial establishment open to the public is located within five hundred (500) feet of the exterior boundary of the site. The Town Plan Commission may authorize specific activities past 6:00 p.m. Monday through Friday and past 2:00 p.m. on Saturday for limited or temporary periods taking into account the proximity and nature of adjoining uses and the extent of noise, dust and vibration associated with the activity. In no event shall any operation within five hundred (500) feet of a residence be authorized to conduct activities past 10:00 p.m. Monday through Friday or 7:00 p.m. on Saturdays.

2. Setback Requirements

- a. No operations or activities, including berm construction, shall be conducted within two hundred (200) feet of any right-of-way line or within two hundred (200) feet of any exterior boundary of the site where a residence is located within five hundred (500) feet of the exterior boundary of the tract.
- b. The Town Plan Commission may authorize berm construction and related site preparation as a temporary activity, for a specific time period, to within twenty-five (25) feet of any exterior boundary of the tract for sites lawfully existing before the effective date of this Ordinance.
- c. The Town Plan Commission may authorize continued vertical removal of materials to within fifty (50) feet of the exterior boundary of the site for sites lawfully existing before the effective date of this Ordinance.
- d. In no event shall any operations or activities, except berm construction and related site preparation activities, be conducted within fifty (50) feet of

any exterior boundary. In exercising their authority under this subsection, the Town Plan Commission may attach reasonable conditions including but not limited to more stringent hours of operation, landscaping, and fencing.

3. Standards of Reclamation. Every owner/operator shall reclaim the site within two (2) years after operations have ceased. There shall be a presumption that operations have ceased if the permit required under this section is not renewed by the operator or approved by the Town Plan Commission within one (1) year from the date of expiration of the previous permit. The Town Plan Commission may defer required reclamation activities for up to five (5) years after operations have ceased upon a showing by the owner/operator that materials remain of such quantity and quality as to be economically feasible to recover and that the site will be reactivated within five (5) years after operations have ceased. Required reclamation activities are as follows:
 - a. Removal of all machinery, equipment and temporary structures from the site.
 - b. Removal or backfilling of stockpiles and debris.
 - c. Filling and grading of suitable soil to a sufficient depth to support vegetation on the site and consistent with adaptability of all or a majority of the site for another use, except for rock faces, rock outcroppings, and permanent water bodies.
 - d. Re-vegetation of areas adjacent to water bodies and water courses to minimize erosion and sedimentation.
 - e. Grading of materials such that remaining slopes do not exceed the minimal or expected angle for subsidence or slippage of the materials involved.
 - f. Every owner/operator shall submit a performance bond or other financial guarantee in the amount of Four Thousand Dollars (\$4,000) per acre identified in the permit. The Town Plan Commission may authorize a reduction in the per acre cost based on detailed evidence provided by the operator or owner.
- D. **CONDITIONAL USES.** New mineral extraction operations, expansions of lawfully existing operations, and bio-remediation or other similar sites shall be a conditional use in all zoning districts.
- E. **PLAN OF OPERATION.** All mineral extraction operations including those operations and activities which lawfully existed prior to adoption of this section shall prepare a plan of operation for the site which shall include the following information:

1. Statement of ownership of the parcel and control of the operations.
2. A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right-of-way on or abutting the site; existing water bodies, water courses and drainageways and proposed modifications; estimated direction of flow or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.
3. Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.

F. **PLAN OF RECLAMATION.** All mineral extraction operations including those operations and activities which lawfully existed prior to adoption of this section shall prepare a plan of reclamation which shall include the following information:

1. A narrative statement describing the planned reclamation of the site including the intended use or adaptability of the site for a particular use after operations have ceased and the reclamation is completed.
2. The method of disposing of materials on the site.
3. A site plan to scale showing areas of cut and fill, fill depths and materials, final contours sufficient to determine slopes; the location and expected seasonal depths of water bodies; the location and width of water courses and drainageways; and vegetative planting.
4. A statement of estimated reclamation costs.

G. **DEFINITIONS**

1. Expansions of Lawfully Existing Operation(s) – Progression of mineral extraction operations onto a contiguous parcel or parcels of land purchased, owned or leased after the effective date of this section.
2. Lawfully Existing Mineral Extraction Operation – A mineral extraction operation existing before the effective date of this section, including any contiguous parcels purchased, owned or leased by the same operator before the effective date of this section and said operation and contiguous parcels are devoid of any present County permit violations at the time of adoption of this section.
3. Mineral Extraction Operation – Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates. Mineral aggregates shall include, but are not limited to, rock, stone, sand

and gravel and other nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. Also constituting mineral extraction operations are such related operations and activities as excavation, 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 crushing, screening, scalping, dewatering and blending. Additionally, storage and stockpiling of materials produced on site only, shall constitute mineral extraction operation. The definition for mineral Extraction Operation shall not apply to the following activities:

- a. Operations affecting less than five (5) acres and for the exclusive use of the property owner provided no material is removed from the property(s).
- b. Pre-mining activities such as site surveying, coring, mapping and other functions necessary solely for proper preparation of the permit.
- c. Excavation in conjunction with utility installation, which is to be backfilled.
- d. Excavation in conjunction with road construction, within the limits of the right-of-way, when construction plans have been approved by the Wisconsin Department of Transportation and/or other governmental bodies.
- e. Excavation which by nature is of limited duration such as graves, septic tanks, and swimming pools.
- f. Agricultural drainage work incidental to agricultural operations and irrigation/stock watering ponds, if no material is removed from the property.
- g. Excavation for structures, parking areas, and stripping of up to one and one-half (1.5) feet of topsoil for the development of subdivisions, following subdivision approval.
- h. Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property.
- i. Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and/or other governmental bodies.
- j. Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.

- k. Excavation related to sod farming.
 - l. Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stat. §§ 144.80 to 144.94 pertaining to metallic mining.
 - m. Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under Wis. Stat. §§144.435 to 144.45 or a hazardous waste disposal facility under Wis. Stat. §§ 144.60 to 144.74 for the exception of mineral extraction operations conducted for the purpose of lining, capping, or covering of said disposal sites.
 - n. Any other uses determined to be exempt by the Town Plan Commission.
- 4. New Material Extraction Operation – A mineral extraction activity on one or more parcels that are separated by a public road or are not contiguous to a lawfully existing mineral extraction operation, including land purchased, owned or leased before the effective date of this Ordinance without prior extraction activity.
 - 5. Operator – Any person who is engaged in a mineral extraction operation or who applies for or holds a mineral extraction permit issued under this section whether individually, jointly, or through subsidiaries, agents, employees, contractors, or subcontractors.

Sec. 2 Mobile Tower Siting Regulations

A. PURPOSE.

- 1. The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

B. AUTHORITY.

- 1. The town board has the specific authority under Wis. Stat. §§ 62.23 and 66.0404, to adopt and enforce this ordinance.

C. DEFINITIONS.

- 1. All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

D. NEW MOBILE SERVICE SUPPORT STRUCTURE AND FACILITIES.

1. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the town obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - v. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - vi. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written

4. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
 - i. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - ii. Make a final decision whether to approve or disapprove the application.
 - iii. Notify the applicant, in writing, of its final decision.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
5. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the required sworn statement.
6. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
7. The fee for the permit is \$3,000.

E. CLASS 1 COLLOCATION.

1. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the town obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas,

transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- v. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - vi. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 4. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
 - i. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - ii. Make a final decision whether to approve or disapprove the application.
 - iii. Notify the applicant, in writing, of its final decision.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 5. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the required sworn statement.

6. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
7. The fee for the permit is \$3,000.

F. CLASS 2 COLLOCATION

1. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
2. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
3. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
4. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
 - i. Make a final decision whether to approve or disapprove the application.
 - ii. Notify the applicant, in writing, of its final decision.
 - iii. If the application is approved, issue the applicant the relevant permit.
 - iv. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

5. The fee for the permit is \$500.

Sec. 3 – Driveways and Culverts

A. DRIVEWAY PERMITS; CULVERT REQUIREMENTS

1. Purpose. For the safety of the general public, the Town of Rosendale shall determine the location, size, construction and number of access points to public roadways within the Town limits. It is the Town's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
2. Culvert Requirements. No person shall construct any driveway or private road in a public right-of-way of the Town of Rosendale without installing a culvert in full compliance with this section. Included within the scope of this requirement are commercial driveways.
3. Driveway Permit Required; Application; Fee.
 - a. Permit Requirement. No person shall locate, establish, or construct a private driveway, road, or other access from a private property line to the traveled portion of any public Town road without first filing an application with the Town Clerk or Town Zoning Administrator and obtaining a driveway permit from the Town of Rosendale.
 - b. Application. Application for such permit may be made to the Town Clerk or the Town Zoning Administrator. The request for such permit shall be in writing signed by the owner of the real estate affected or his agent and shall include design specifications and a drawing depicting the location and orientation of the proposed culvert in relationship to the real estate involved and the adjacent road, street, or highway.
 - c. Review. The Town Engineer or his representative shall review all applications using this Chapter and the data and findings from the Driveway Inspection Report as shown in Section 4-4-2 in issuing driveway and culvert permits.
 - d. Fee. At the time of making application for a driveway permit, the applicant shall pay a fee of Two Hundred Dollars (\$200).
4. Application Provisions. All driveway permit applications shall contain the applicant's statement that:
 - a. The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to this property and not for the purpose of parking or servicing other vehicles, advertising,

storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.

- b. The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Town Board or street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damages or destruction of such private roadway.
- c. The permittee, his successors or assigns, agrees to indemnify and hold harmless the Town of Rosendale, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- d. The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windows of such material upon such portion of such driveway within the dedicated portion of the Town road or street.

B. DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS

- 1. General Requirements. The location, design and construction of driveways shall be in accordance with the following:
 - a. General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
 - b. Number. The number of driveways to serve an individual residential or commercial property fronting on a street shall be one (1), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.
 - c. Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and

right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (5).

- d. Drainage. The surface of the driveway connecting the street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way. All driveways and parking lots shall be graded in such way that no storm water reaches the roadway.

- e. Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - (1) The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
 - (2) Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate catch basins are required where the total culvert length is greater than three hundred (300) feet and/or where a bend or curve in the pipe is required.
 - (3) Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.

- f. Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board before any utility may be relocated and the driveway installed.

- g. Variances. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

2. Special Requirements for Agricultural, Commercial and Industrial Driveways. The following regulations are applicable to driveways serving agricultural, commercial, or industrial establishments:
 - a. Width of Drive. No part of a private driveway located in the Farmland Preservation, General Agriculture, Commercial, or Industrial District may be narrower than 60 feet. In instances where the nature of the activity or the physical characteristics of the land justify a narrower width than herein specified, the Town Board in its discretion may permit a driveway of narrower width.
 - b. Angular Placement of Driveway. The angle between the center line of the driveway and the curb line or road edge shall not be less than seventy (70) degrees.
3. Special Requirement for Residential Driveways. The following regulations are applicable to driveways serving residential property:
 - a. Width. Unless special permission is first received from the Town Board, or committee thereof, a residential single-type driveway shall be no greater than twenty-six (26) feet wide at the curb line and not less than eighteen (18) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-six (26) feet wide at the curb line and twenty-four (24) feet wide at the outer or street edge of the sidewalk.
 - b. Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
4. Appeal from Permit Refusal. Any person feeling himself aggrieved by the refusal of the Zoning Administrator to issue a permit for the private driveway may appeal such refusal to the Town Board within twenty (20) days after such refusal to issue such permit is made.
5. Prohibited Driveways.
 - a. No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town of Rosendale except as permitted by this section. As used herein, the word “structure” includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
 - b. No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersections, a driveway shall not provide

direct ingress or egress to or from the street intersection area and shall not occupy areas of the road way deemed necessary by the Town for effective traffic control or for highway signs or signals.

- c. The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

6. Culvert Construction Standards.

- a. Size. Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than fifteen (15) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel, reinforced concrete, or dual-wall HDPE and shall be of new manufacture, unless specifically excepted by the Town Engineer.
- b. Gauge. The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

Pipe Diameter	Gauge
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

The class of reinforced pipe shall be in accordance with the following:

Height of Cover (in feet)	Class of Pipe
0 – 2	IV
2 -3	III
3 6	II

- c. Drainage. The culverts shall be placed in the ditch line at elevations that will assure proper drainage.
- d. Endwalls. Culverts shall be provided with concrete or metal apron endwalls as directed by the Town Engineer.
- e. Backfill Material. Material used for backfill shall be of a quality acceptable to the Town Engineer and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.

- f. Erosion Control. Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Town Engineer.
- g. Cost. The property owner shall install, maintain, and (as necessary) replace the culvert and be responsible for the cost thereof.
- h. Appeal. Persons may request a variance from the culvert requirements of this Section by filing a written appeal with the Town Zoning Administrator to be heard by the Board of Appeals.

TOWN OF ROSENDALE BUILDING CODE

ARTICLE I – BUILDING INSPECTOR

A. BUILDING INSPECTOR

- 1. It shall be the duty of the Building Inspector to enforce the provisions of this Ordinance, adopting the State’s Uniform Dwelling Code and commercial Building Code.
- 2. A Building Inspector shall be appointed by the Town Board to serve at the pleasure of the Town Board during the term of office of such Town Board, not for a fixed term, but subject to removal at any time by the Town Board with or without cause. The compensation of the Building Inspector shall be determined at the time of such appointment.
- 3. The Building Inspector shall examine all plans, blueprints, etc., of all new buildings to be constructed and of all construction classified as remodeling, reconstruction, or the moving of any building into the Town of Rosendale.
- 4. The Building Inspector shall make an inspection for compliance of any building constructed, proposed to be constructed or remodeled, or moved into the Township, before such work is commenced and prior to the time that footings or walls are poured.
- 5. An occupancy inspection shall be conducted at the owner’s request.

B. BUILDING PERMITS

- 1. No building or structure or any part thereof shall hereafter be moved, built, enlarged, altered, or demolished within the Town (except as hereinafter provided) unless a permit therefore shall first be obtained by the owner, or his agent, from the Building Inspector.

2. The term “Building” as used in this Article shall include any building or structure, and any enlargement, alteration, moving or demolishing of any building or structure.
3. It shall be unlawful to commence work on any building or alteration before the building permit has been issued.
4. All applications for a building permit shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered, or moved, the existing and/or intended use of each building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots of buildings as may be necessary to determine and provide for the enforcement of this Ordinance.
5. After being approved, the plans and specifications shall not be altered in any respect which involved any Ordinances, laws or orders, or which involves the safety of the building, except with the written consent of the Building Inspector.
6. If in the opinion of the Building Inspector, the character of the work is sufficiently described in the application, he/she may waive the filing of plans.
7. This Ordinance shall not be construed to require a permit for any repairs, minor alterations, or maintenance activities that do not change the occupancy area, structural strength, fire protection, exits, lights, or ventilation of the building. Nor shall this Ordinance be construed to require a permit for the moving into or within the Town structures that are constructed so as to make them moveable.
8. With every permit issued, the Building Inspector shall issue to the applicant a weatherproof card, properly filled out. It shall be the duty of such applicant to place such card in a conspicuous place on the premises where the building is to be erected, the card to be unobstructed from public view and not more than fifteen (15) feet above the grade.
9. A building permit shall have lapsed and be void unless building operations are commenced within six (6) months from the date thereof. A building permit for a residential structure shall lapse and be void from and after twenty-four (24) months from its date of issuance; a building permit for all other non-residential structures shall lapse and be void from and after eighteen (18) months from its date of issuance.
10. If the Building Inspector shall find at any time that the Ordinances, laws, orders, plans and specifications are not being complied with, he shall revoke the building permit by written notice posted at the site of the work. When any such permit is revoked it shall be unlawful to do any further work upon such building until the

permit is reissued, excepting such work as the Building Inspector shall order to be done as a condition precedent to the reissuance of the permit.

11. In case adequate plans are presented the Building Inspector may, at his discretion, issue a permit for a part of the building before receiving the plans and specifications for the entire building.
12. Any person feeling himself aggrieved by any order or ruling of the Building Inspector may appeal from such order or ruling to the Town Board within five (5) days after written notice of such order or ruling shall have been delivered to him, such appeal to be in writing, setting forth the order appealed from, and filed with the Town Clerk. Where a situation requires an immediate decision, that of the Building Inspector shall be final and conclusive.
13. Before receiving a building permit the owner or his agent shall pay into the Treasury the following fee as per schedule.
14. Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been started within six (6) months from the date of such permit.
15. The Building Inspector shall issue a notice to the Town Clerk and the Assessor whenever a building permit is issued. Such notice shall be made by the Building Inspector on a form furnished by the Town, and shall contain all required information that is pertinent to the construction for which the building permit has been issued.
16. No person shall interfere with the Building Inspector while he is in the performance of the duties of his office.
17. Each applicant for a Town building permit shall further comply with all applicable laws, rules and regulations of Fond du Lac County and the State of Wisconsin.

C. BUILDING CODE

The Commercial Building Code and the Uniform Dwelling Code for the State of Wisconsin are hereby made part of this Ordinance; said Codes shall include all provisions thereof which have been adopted and published before the effective date of this Ordinance notwithstanding any provision thereof has a delayed effective date for purposes of the State of Wisconsin.

D. VIOLATION AND PENALTIES

Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction,

forfeit not less than nor more than fees on schedule for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, may be imprisoned in the County Jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

Adopted this _____ day of _____, 2015

TOWN OF ROSENDALE

By: _____
Town Chairperson

Attest: _____
Town Clerk-Treasurer