



Town of Brothertown Zoning

Approved 3-27-2017.



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ZONING ORDINANCE

TOWN OF BROTHERTOWN

CALUMET COUNTY, WISCONSIN

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**TOWN OF BROTHERTOWN
CALUMET COUNTY, WISCONSIN
ZONING ORDINANCE**

Section 1.0 Introduction.

1.1 Town Authority. The Town Board of the Town of Brothertown, Calumet County, Wisconsin, having been granted village powers pursuant to Section 60.10 does ordain this Zoning Ordinance under the provisions of Section 62.23 (7).

- A) This Ordinance is intended to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for agriculture, trade, industry, residence and other purposes; and for the said purpose to divide the Town of Brothertown, Calumet County, Wisconsin, into districts of such number, shape, and area 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) It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that when this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance shall govern.

1.2 Statutory Authority. These regulations are adopted under the authority granted by 60.10, 60.62, 61.35, 62.23, 66.0103, 295.14, & 62.23(7)C, Wisconsin Statutes, and amendments thereto, and referred to, or cited as the ZONING ORDINANCE for the Town of Brothertown, Calumet County, Wisconsin.

1.3 Application. Unless otherwise provided by this Ordinance, after the effective date of this Ordinance, no structure, land or water shall be developed, and no structure or part thereof shall be relocated, erected, moved, reconstructed, enlarged, extended, converted or structurally altered without a Building Permit and without full compliance with this Ordinance and all other applicable Town, County and State regulations.

1.4 Compliance. The Town Board or other owner or owners of property within the Town who are affected by a particular regulation, variance or special use under this ordinance may sue to enforce, by injunction order, compliance with this Ordinance.

1.5 This Zoning Ordinance shall apply to:

- A) The regulation and restriction of lot coverage, size and location of all structures, so as to

prevent overcrowding and to provide adequate sunlight, air, sanitation and storm drainage.

- B) The size of yards and other open spaces.
- C) The density of population.
- D) The regulating of non-conforming uses.
- E) The location and use of buildings, structures and land for agriculture, trade, industry, residence or other purposes.
- F) Consistency with the Town of Brothertown Comprehensive Plan, or application of a revision to the Land Use Plan to meet consistency.

1.6 Purpose. The purpose of this ordinance is to promote the public health, safety and general welfare of the town through provisions designed to:

- A) Encourage an appropriate use of the land.
- B) Conserve the value of land and buildings.
- C) Prevent the overcrowding of land and the congestion of streets by enforcing regulations that protect the traffic-carrying capacity, safety and efficiency of all existing and future town, county, and state roadways.
- D) Provide for adequate light and air.
- E) Secure safety from fire, flooding, pollution, contamination, panic, and other dangers.
- F) Avoid undue concentration of population.
- G) Stabilize and protect existing and potential property values.
- H) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible development.
- I) Promote the goals and objectives, consistency of the Land Use Plan, and any other aspects of the Town of Brothertown's Comprehensive Plan, and all amendments thereto.
- J) Further the wise use, conservation, protection, and proper development of the Town's natural resources.
- K) Preserve and protect the beauty and open space of the Town of Brothertown.
- L) Conserve and protect the agricultural lands in the Town.
- M) Protect and maintain safe and ample supply of groundwater.

- N) Provide for the timely administration & enforcement of this ordinance.
- O) Provide procedure for the appeal of Land Use decisions.

1.7 Title. This ordinance shall be known as and may be cited as the “Zoning Ordinance Town of Brothertown, Calumet County, Wisconsin.”

1.8 Warning and Disclaimer of Liability. This chapter shall not create a liability on the part of, or a cause of action against, Town of Brothertown or any officer or employee thereof, for any damages that may result from reliance on this chapter.

1.9 Severability of This Ordinance. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to that end, the provisions of this ordinance are severable.

1.10 Validity and Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 2.0 GENERAL PROVISIONS.

2.1 Establishment of Zoning Map. The location and boundaries of the districts established shall be as shown on the map entitled the Official Zoning Map of the Town of Brothertown, Calumet County, Wisconsin. The Official Zoning Map with all notations, dimensions, designations, references and other data shall accompany and is part of this ordinance, and upon adoption shall be signed and dated by the Town Board Chairman and attested to by the Town Clerk. Amendments to the Official Zoning Map are described in Section 23 of this ordinance. Any amendments to the zoning map will also be dated.

2.2 Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A) Boundaries as indicated as approximately following the center lines of streets, streams, and highways shall be construed to follow such center lines.
- B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C) Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map, boundaries shall be determined by the use of an engineer’s scale on the Official Zoning Map.
- D) Legal descriptions of property, when available, shall be controlling as to the zoning of any property, or the property proposed to be rezoned in accordance with the terms of the ordinance.

2.3 Application of Regulations. The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A) No land, building, or structure shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B) No part of a yard, open space, or off-street parking space required about or in connection with any building or land use for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking space similarly required for any other building.
- C) No lot area and building setback existing at the effective date of adoption of this ordinance shall be reduced below the minimum requirements set forth herein. Lot area and building setback created after the effective date of adoption of this ordinance shall meet the minimum requirements established by this ordinance.
- D) When three of the four lot lines abut a public street, front yard setbacks would apply on 2 of the 3 lot sides that abut streets, while the third side would constitute a side yard.
- E) The use and height of building hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which said land or building is located.
- F) No alterations to any building, except uncovered steps or handicap ramps shall project into the front yard established at the time of the original construction of such building beyond a line connecting the nearest points on the setback lines of the adjacent buildings on each side of said building.
- G) Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 24 inches, and/or up to 48 inches for solar heating systems.
- H) All dwellings shall conform to minimum floor size for the District they are located in. One story 1100 sq. ft. two story 960 sq. ft. living area excluding garages. Square footage may be reduced only if it conflicts with the no more than 30% lot coverage.
- I) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance.(No property shall have more than 30% of its total square footage covered with structures), nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- J) Residential buildings hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one residential building on one lot.

- K) Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building or part thereof the construction of which shall have been started prior to the effective date of this ordinance.
- L) Notwithstanding anything to the contrary in this Ordinance, the Town reserves the right to require applicants who are seeking zoning amendments, variances or conditional uses to reimburse the Town for its reasonable, professional fees incurred in the review or administration of the relevant petition. The Town reserves the right to condition the issuance of the permit, rezoning or other action on the reimbursement of the professional fees incurred by the Town.
- M) No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified by the district in which it is located. Uses not particularly specified in this Ordinance may, nonetheless, be permitted by the Town Board, only if such uses are substantially similar in character to the principal uses permitted in the district.
- N) At no time shall a recreational vehicle be used for permanent living, sleeping, material storage or other purposes. No recreational vehicle shall be permanently connected to water, gas, and electric or sanitary sewer services.
- O) Any driveway longer than 300 feet measured from its intersection with the public road pavement, must be constructed to a minimum surface width of 10 feet and include passing areas every 300 feet that are a minimum of 20 feet wide and 30 feet long. Permit required.

2.4 Exceptions. The regulations contained herein relating to frontage on public roadways, heights of buildings, size of yards, and other open spaces shall be subject to the following exceptions:

- A) All lots shall have a minimum 150 foot frontage upon a public roadway or other officially approved means of access; however, in order to receive a building permit for construction of any principal structure, the lot must comply with the minimum lot dimensional requirements specified for the applicable zoning district.
- B) It is the policy of the Town to discourage flag lots. Therefore flag lots will be reviewed by the Town Board on a case- by-case basis. A flag lot being created on a local road where there are existing building(s) located at least 300 feet from the local road or a proposed lot/building site is at least 660 from the local road, the minimum frontage may be reduced to 33 feet. The minimum lot width past the "pole" of the flag lot must have a minimum width of 150 feet. If a flag lot is authorized, the long strip for a flag lot shall abut the lot or fence line and have a minimum width of 33 feet. Driveways installed on a flag lot must comply with Section 2.3 O).
- C) Chimneys, cooling towers, elevator bulkheads, fire towers, silos, monuments, penthouses, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures, and necessary mechanical appurtenances are hereby

excepted from the height regulations of this ordinance and may be erected in accordance with the other regulations or ordinances of the Town of Brothertown.

- D) Where a lot abuts on 2 or more streets having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

2.5 Nonconformities.

- A) **Applicability and Intent.** Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed a nonconforming use, lot or structure, respectively. It is the intent of this ordinance to permit such nonconformities to continue subject to certain restrictions. No use, lot, or structure will receive nonconforming status under this section unless it lawfully existed at the effective date of adoption or amendment of this ordinance.
- B) **Nonconforming Uses of Land and Structures.** No such nonconforming use of any land or structure shall be extended or enlarged. If such nonconforming use is discontinued for a period of twelve months, any future use of such land or structure shall conform to the ordinance.
- C) **Nonconforming Structures.** No such structure shall be altered in any manner which would increase the degree of nonconformity. A nonconforming structure may be repaired, maintained, renovated, or remodeled without respect to the cost thereof, provided that the degree of nonconformity is not increased as a result. If a nonconforming structure is damaged or destroyed due to violent winds, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be restored to the size, location, and use that it had immediately before such damage or destruction. The structure may be restored to a larger size if necessary to comply with applicable state or federal requirements.
- D) **Nonconforming Characteristics of Use.** If characteristics of use such as lightning, parking or other matters pertaining to the use of land, structures and premises are made non-conforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.
- E) **Existing Special Exceptions.** Any use or structure existing at the effective date of adoption or amendment of this ordinance which is classified as a special exception in the district in which it is located shall be deemed to have been granted approval by the Plan Commission, subject to maintaining the character and extent of such use or structure existing on that date. Any extension or enlargement or change in such use or structure shall require approval of the Plan Commission as provided in this ordinance. Plan

Commission approval shall be required for extension or enlargement of resource extraction uses to any properties not devoted to such use at the effective date of adoption or amendment of this ordinance.

2.6 Calumet County Ordinances. The following Calumet County ordinances may affect land regulated under this Zoning Ordinance. In a situation where the Town of Brothertown and Calumet County regulations conflict, the more restrictive regulations shall apply.

- A) **Zoning Ordinance** Parcels in a shoreland area are subject to the Calumet County Zoning Ordinance. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.
- B) **Land Division Ordinance Ch 62.** All existing, undeveloped parcels of land of record in the Calumet County Registerer of deeds office, and any new land divisions or subdivisions as defined in the Land Division Ordinance of Calumet County, Wisconsin, shall conform in full with the provisions of that ordinance. No building permit shall be issued for any lot until such compliance is assured.
- C) **Floodplain Ordinance Ch 51.** Parcels may be subject to the floodplain ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.
- D) **Post Construction Stormwater Management Ordinance. Ch 10-49.** Parcels may be subject to the Post Construction Storm Water Management Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- E) **Construction Site Erosion Control Ordinance Ch 10-27.** Parcels may be subject to the Erosion Control Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- F) **Environment Ordinance. Ch 18.** Parcels may be subject to the Animal Waste Storage Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.
- G) **Health and Sanitation Ordinance. Ch 30.** No private water supply or sewage disposal system, or part thereof, shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered, or its use changed without full compliance with the Sanitary Ordinance, Calumet County, Wisconsin. No building permit shall be issued until any required installation of a safe and adequate water supply and sewage disposal system is assured and a sanitary permit is issued.
- H) **Wind Energy Facility Ordinance. Ch 79.** Parcels may be subject to the Wind Energy Facility Ordinance of Calumet County. Any permit required by said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this Ordinance.

- 1) **County Trunk Highway Ordinance Ch 32.** Parcels may be subject to the Calumet County Trunk Highway Ordinance of Calumet County. Any permit required by Said Calumet County Ordinance shall be obtained from Calumet County prior to the issuance of any permit under this ordinance.

2.7 Interpretation of Regulations. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

2.8 Farmland Preservation Program. Left for future use.

Section 3.0 Glossary of Terms.

3.1 General Terms. For the purposes of this ordinance, certain words and terms are defined as follows:

Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory; the word "should" is advisory; and the word "may" is permissive. Any words not defined in this section shall be presumed to have their customary dictionary definitions.

3.2 Definition of Terms. The definitions of terms throughout this ordinance shall be interpreted to have the following meanings.

Adjacent means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

"Adult-oriented establishment" shall include, but is not limited to, "adult bookstores," "adult motion picture theatres," "adult motion picture establishments" or "adult cabarets," and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for profit, direct or indirect. "Adult-orientated establishment" also includes the physical location from which adult entertainment is broadcast.

Agriculture, Animal means the use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.

Agriculture, Crop means the use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

Agricultural Use Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

Automobile Yard Any premises on which more than two automotive vehicles not in running, operating or licensed condition and not used for salvage purposes, are stored in the open. This use would be intended, as an example, for an auto body shop or auto repair shop where for periods of time more than two vehicles need to be stored outside as a matter of practicability to the business.

Back Lot Contiguous Conforming or non-conforming lots, that are under common ownership, shall be considered a single parcel, unless the parcel is re-divided to separate Parcels.

Bed and Breakfast Establishment means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

Boathouse Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation nor shall they have a height of more than 3 feet above the grade level established at the 75 foot lake setback. Boathouses must comply with Ch.82 of the Calumet County Zoning Ordinance.

Board of Appeals Means a body designated by the legislative body to hear appeals from land-use decisions (see section 18.0 of this ordinance).

Building Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind. When separated by division walls without openings, each portion of such building, so separated shall be deemed a separate building.

Building, Accessory A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

Building, Height of The vertical distance from the top of the building roof or structure to the elevation at the finished grade at the building line as measured on the front street side of the structure. (*Calumet County Ordinance Chapter 52 applies if structure is closer than 75 ft. to lake.*)

Building, Main A building constituting the principal use of a lot.

Campgrounds and Camping Resorts any privately or municipally owned parcel or tract of land, accessible by automobile or other engine-driven vehicle designed, maintained, intended or used for the purpose of supplying accommodations for overnight use by recreational vehicles, open to the public and designated as a developed camp area and set aside for free or paying camping purposes.

Cemetery A local community or private church managed site that is set apart for the burial or interment of the human dead or for the burial or interment of small domestic pets.

Center Line A line connecting points on highways from which setback lines shall be measured, at any point on the highway.

Certified Survey Map (CSM) A map of a lot split prepared in accordance with Wis. Stat. § 236.34.

Channel A natural or artificial watercourse of perceptible extent, which contains a definite bed and banks to confine and allow continuous or periodic flow of water. Channel flow is that water which is flowing within the limits of the defined channel.

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

Comprehensive Plan is the adopted Town of Brothertown Comprehensive Plan that was based on 66.1001 (1)(a) of the Wisconsin State Statutes.

Conditional Use is the use of special nature as to make impractical their predetermination as a principle use in a district

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

Daycare A dwelling unit where supervision and care and/or instruction for more than 4 children under the age of 7 is provided for periods of less than 24 hours per day, and which is licensed by the Wisconsin Department of Children and Families

Density A number of housing units in a given land area.

Dog Kennel A kennel is any establishment wherein or whereon 4 or more dogs over the age of 5 months are kept for breeding, sale, or sporting purposes, or where boarding care is provided for compensation. A kennel shall be deemed the housing of 4 or more dogs.

Dwelling, One-Family A detached building designed for or occupied exclusively by one family.

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

Dwelling Unit A building or portion thereof which provides or is intended to provide living quarter's exclusive for one family.

Family means one or more individuals, related or unrelated by blood, marriage, adoption, or guardianship (but not exceeding 4 unrelated persons), living together under a common

housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Farm: Means all land under common ownership that is primarily devoted to agricultural use.

Farmland Preservation Plan means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subchapter. IV of chapter 91, 2007 statutes.

Fence A barrier intended to prevent escape or intrusion, or to mark a boundary.

Fence Closed A fence whose entire length is more than 50% opaque and whose individual elements or sections are also greater than 50% opaque.

Fence Open A fence whose entire length is equal to or not greater than 50% opaque and whose individual elements or sections are also equal to or not greater than 50% opaque.

Flag Lot, The shape of a property, where the access to the road is provided along the long narrow "flag pole" (minimum 33 feet in all districts) and the usable land itself is the rectangular flag at the end of the "flag pole". (150 feet in all districts). Setbacks on flag lots shall be 50 feet from the front of the lot at the minimum width.

Floor Area The total area bounded by the exterior walls of a building at the floor level usable as living quarters, but not including basement, garages, porches, breezeways, and unfinished attics.

Frontage The portion of a lot abutting a street measured along the street line.

Garage, Private An accessory building or space for the storage of motor-driven vehicles.

Garage, Public Any building or premises, other than a private storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, Storage Any building or premises used for the storage only of motor-driven vehicles or motor-driven machinery, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

Home Artisan Means a resident of the premises that grows or creates a product as a hobby, and offers that product to the public for sale. It is the intent of this chapter to classify incidental hobbyists the opportunity to sell garden produce or artisan crafts from their property. Nothing in this Code shall prohibit the home artisan from selling their product off-premise. Examples of home artisans are the person who works full or part time and as a hobby grows and sells flowers, canned goods, or creates and sells arts and crafts. Number of employees, size of the sales area, location of the sales area, and type of product are some of the standards that separate the home artisan from the home occupation.

Home Business Means a business conducted on the same lot as, and in conjunction with, the primary residence of the operator. Home businesses shall employ no more than one person not a

resident of the premises. Examples include trade or contractors establishments (such as plumbing, heating and air conditioning, excavating, general carpentry and woodworking and craftsmanship, liquid waste hauling, painting, electrical, and well drilling), veterinary offices, automotive and farm implement repair shops, horse and buggy repair, tack repair, upholstery, and picture framing. The list of examples is not intended to be exhaustive.

Home Occupation Means a business, profession, occupation, or trade which is conducted for gain or support, located entirely within a principal dwelling unit, operated by at least one person residing in the dwelling unit, and is accessory, incidental, and secondary to the use of the building as a residence and does not change the essential residential character or appearance of the dwelling unit. Home occupations shall employ no more than one person who is not a resident of the dwelling unit on the property. Examples of home occupations include barber/beauty shops, canning, tailoring, and professional home offices, but a home occupation shall not include auto or farm implement repair facilities, or private schools. Traveling in-home dealerships and other types of traveling in-home sales, which do not result in the public coming to the dealer's home, such as traveling home jewelry, art, plastic dishes, cosmetic, and coffee/tea party sales, shall not be considered home occupations and shall be exempt from this chapter.

Hotel A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

Junk or Salvage Yard An area consisting of buildings, structures, or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Livestock: Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, elk, farm raised gamebirds, camelids, ratites, and farm raised fish.

Livestock Waste means manure, milking center waste and other organic waste generated by a livestock facility.

Lot, Area, Net The square footage of any lot less the square footage of all road right away or easements of roadways.

Lot, Corner A lot located at the junction of and abutting 2 or more intersecting streets.

Lot, Depth The average distance from the front to the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior A lot other than a corner lot.

Lot Width The distance between side yard lines of the lot, measured at the minimum road setback lines.

Lot, Zoning Lot A single property, parcel, unit, tract, plot or otherwise designated to be used, as a unit under single ownership or control, and which may be occupied by one or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A "zoning lot" may or may not coincide with a lot of record.

Manufactured Home A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation or assembly at the building site which is certified and labeled as a manufactured home under 42 USC Sections 5401-5426, which, when placed on the site:

1. Is set on an enclosed continuous foundation in accordance with Sec. 70.43(i), Wis. Stats., and ILHR 21, Subchapters 111, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
2. Is installed in accordance with the manufacturer's instructions;
3. Is properly connected to utilities; and
4. Meets other applicable standards of this Chapter.
- 5) Manufactured Homes are not required to be in a mobile home park.

Mobile Home A single-family dwelling unit designed for long term occupancy which is, or was as originally constructed, designed to be transported upon a public highway arriving at the site where it is to be complete and ready for occupancy except for minor and incidental unpacking and hook-up operations, and designed, equipped and used primarily for single family living quarters. A Mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed, and even if any additions, attachments or foundations or other investments in it that exceed 50% of the value of the Mobile Home it shall still be considered a mobile home.

- 1) Mobile Homes must be located in a Mobile Home Park.
- 2) Mobile homes cannot be more than 10 Years old.
- 3) Manufactured homes shall not be considered Mobile Homes.

Mobile Home Park Any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for more than two mobile homes on a year-round basis and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park and its facilities. Mobile home parks shall not include automobile or mobile home sales lots which unoccupied mobile homes are parked for purposes of inspection and sale.

Mobile Service A radio communications service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (a) both one-way and two-way radio communication services; (B) A mobile service which provides A regularly interacting group of base, mobile, portable, and associated control and relay stations

(whether licensed on an individual, cooperative, or municipal basis) (C) Any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding. (See 47 USC 153 (33)).

Manufactured Dwelling A structure which is partially pre-assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. A modular home is also called prefabricated home. For the purpose of this Ordinance, Manufactured Dwellings must meet the requirements of all applicable State and Local Building Codes. A Manufactured Dwelling is subject to DSPS 320.13, Wis. Adm. Code. (UDC).

Moved Home. Any one or two family dwelling which was located at another site on a permanent foundation, which is being moved to a new approved lot and will be installed on a permanent foundation. Moved homes require a conditional Use permit. Age, appearance, code compliance and condition of roads used in transporting of the moved home will be considered in granting a conditional use permit. Mobil homes are not considered moved homes.

Navigable Waters have the meaning given in Chapter 30 of the Wisconsin Stats.

Non-Metallic Mining Operations of activities at a nonmetallic mining site for the extraction from the earth of material consisting principally of naturally occurring, organic or non-organic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to stone, gravel, clay peat, talc or topsoil. Nonmetallic mining may involve the use of mining equipment or techniques to remove materials from the in-place non-metallic mineral deposit, including drilling and blasting, as well as associated activities such as topsoil removal, excavation, grading and dredging. Processing the material may include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, crushing, screening, scalping, pulverizing, and de-watering.

Owner means a person who has an ownership interest in land.

Permitted Use A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations and performance standards, if any, of such districts.

Person means an individual, corporation, partnership, cooperative, Limited Liability Company, trust or other legal entity.

Property Line means a line that separates parcels of land.

Right-of-Way The width between property lines of a street or highway easement.

Roadside Stand A structure not permanently fixed to the ground that is readily removable in its entirety covered or uncovered and not wholly enclosed, and used solely for the sale of farm

products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area and there shall not be more than one roadside stand on any one premise.

Setback The depth of the yard, measured horizontally on a lot from and at right angles to the front lot line or the right-of-way line of a street, road, highway or the waterline.

Sign Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, fraternal or similar organization, or any sign indicating address. Each display surface of a sign shall be considered a sign. A sign also includes outdoor advertising attached to, made a part of, or placed in front, rear, sides, or top of any structure or on any land to announce the name or nature of a farm business including a roadside stand.

Sign, Directional A sign erected for the purpose of directing persons to a place of business, recreation, public building, school or church.

Sign, Scrolling. A sign that does not remain stationary and scrolls at a rate faster than 1 revolution per minute.

Street All property dedicated or intended for public or private street purposes or subject to public easements therefore and 24 feet or more in width.

Structural Alteration Any change in the bearing walls, columns, beams, girders, or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, and/or any movement of a structure from one location or position to another.

Structure Anything constructed or erected, the use of which requires a more or less permanent location on or in the ground. Includes but is not limited to objects such as buildings, factories, sheds, cabins, wells, septic tanks, and disposal fields.

Temporary Structure A structure which is built of such materials and in such a way that it would commonly be expected to have a relatively short useful life, or is built for a purpose that would commonly be expected to be relatively short-term and not to be habitable. This includes Hoop type canvas covered structures, shipping storage containers or pods.

Use Any clearly identifiable activity conducted, or service performed, on any specific premises, with or without any structures.

Urban Agriculture –Small scale agricultural activities which are permitted to occur within the Mixed Use Commercial and the S.F. 20 zoning districts where large tracts of land are not required for management. Examples of Urban Agriculture include vegetable, flower, herb and spice gardens; raising of fruits, nuts and berries; and specifically, the non-commercial raising and keeping of chickens, rabbits, and bees.

Use, Accessory Any use of a premises which is clearly subordinate to and customarily incidental to a pre-existing, permitted, principal use, and located upon the same premises as such established principal use.

Use, Principal the clearly identifiable dominant (or main) use of a premise.

Variance A relaxation of the terms of the ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Vision Clearance An unoccupied triangular space at the intersection of two or more streets or highways, or highways and railways which is bounded by the street lines, highway or railway right-of-way lines and a setback line connecting points specified by measurement from the corner on each street, highway or railway line.

Wetlands Areas where groundwater is at or near the surface much of the year. Tamaracks, sphagnum moss, sedges, cattails, reeds and vegetation types.

Wind Energy Systems Equipment that converts and then stores or transfers energy from the wind into usable forms of energy on a large, industrial scale for commercial or utility purposes. Small scale wind systems of less than 170 feet in height with a 60-foot rotor diameter and a nameplate capacity of less than 100 kilowatts or less are exempt from this definition and the provisions of this Ordinance. All wind energy systems shall have a minimum setback of 1.1 times the height of the structure from any lot line.

Yard An open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

Yard, Front A yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on said lot. Where a lot is located such that its rear and front lot lines each abut a street right-of-way line, both such yards shall be classified as front yards. Every yard of a corner lot facing a street right-of-way line shall be classified as a front yard.

Yard, Rear A yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on said lot.

Yard, Side A yard situated between the side lot line and the nearest line of a structure located on said lot and extending from the rear line of the front yard to the front line of the rear yard.

Zoning Administrator A local governmental official or designated agent which administers and enforces the Zoning Ordinance and land development regulations, including the issuance of zoning permits.

Section 4.0 Setbacks.-Signs-Fences-Urban Agriculture.

4.1 Setback Lines Established. Setback lines are hereby established in the Town of Brothertown along all public highways, private roadways, and at the intersections of highways with highways as hereinafter provided. Where a highway is located on a Town, City or Village boundary, this section shall not be effective on the side of such highway that is within the city or village or the adjoining Town.

4.2 Setbacks from Highways. Except as otherwise provided, the distances from the center line or from the right-of-way line to the setback line shall be as provided by the following paragraphs of this subsection.

4.3 Classification. Whenever a highway is improved to a classification requiring a greater setback distance than that required by this ordinance prior to such improvement the setback distance of existing buildings shall not be affected by such improvement.

In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail, but this regulation shall not apply to streets in platted subdivisions.

- A) Along Highways Generally. The minimum setback distance from the center line or Right-of-way line, at any point, for the respective classes of highway shall be as follows:

Highway Classification	Setback from Center Line	Setback from Right-of Way Line
Federal & State Trunk Highways	125 feet	75 feet
County Trunk Highways	100 feet	60 feet
Town Roads except in Platted subdivisions	83 feet	50 feet
Streets in platted subdivisions	--	30 feet
Private Roads	45 feet	30 feet from edge of road or easement

- B) In each quadrant of any public street intersection or there shall be a Vision Clearance Triangle bounded by the street (and/or track) centerlines and a line Connecting points on them two hundred fifty (250) feet from the centerline Intersection along Federal and/or State highways, two hundred (200) feet from the centerline intersection along County Trunk highways, and one hundred fifty (150) feet from the centerline intersection along Town Roads. Within a Vision Clearance Triangle, no structure or object of natural growth, except annually Harvested crops (except fruit trees), shall be constructed, maintained or permitted to grow beyond the height of three (3) feet above the elevation of the highway or Railroad grade at the centerline. This provision shall not apply to any private Streets or roads.

- C) **At Highway Intersections with Transitional Widening.** At intersections of highways with other highways provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
- D) **At Highway Intersections with Curve Connections.** At intersections of highways with other highways, where the intersecting highways are connected with pavement or surfacing constructed on a curve, the pavement or surfacing on the curve shall be measured from the centerline of the curved section determined accordingly.

4.4 Centerlines of Highways. The centerline of any road or highway is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed, or the center of the directional separator, if the highway is directionally divided.

4.5 Structures Prohibited within Setback Lines. No new buildings, new sign, or other new structure, including cemeteries, nor any part thereof, shall be placed between the setback lines established by this ordinance and the highway except as provided by this ordinance and no such building, sign or structure or part thereof existing within such setback lines of the effective date of this ordinance, shall be moved, except outside such setback lines, or altered, enlarged or added to in any way that increases or prolongs the permanency thereof.

4.6 Structures Permitted within Setback Lines. The following kinds of structures may be placed between the setback line and the highway:

- A) Open Fences.
- B) Telephone, telegraph and energy transmission poles and lines and micro-wave radio relay structures may be constructed within the setback lines.
- C) Underground structures not capable of being used as foundations for future prohibited overground structures.
- D) Signs permitted within setback lines as provided in Section 4.9 of this ordinance.
- E) Access or service highways constructed according to plans as approved by the County Highway Committee giving such approval, the County Highway Committee shall give due consideration to highway safety and maximum sight distances.
- F) Temporary structures permitted in the commercial and industrial districts.

This subsection shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no shrubbery or trees shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections, as provided by Section 4.3, paragraphs (b), (c), (d) of this section, shall be obstructed.

4.7 Setback and Area Regulations.

Table 4.7. Area Regulations for all Zoning Categories.

Zoning Category	Front-Yard Setback*	Lot Width	Side-Yard Setback	Rear-Yard Setback	Height	Minimum Area Req. Excluding ROW.
GA: General Agricultural Chapter 7.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1-MIN 10 FT. AG ANMLS 100 FT.	50 FT	RES 35FT. AG-UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Density 1in 20
W: Wetlands Chapter 8.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1-MIN 10FT. AG ANMLS 100 FT	50 FT	RES 35FT. AG-UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	2 ACRE
HL: Heartland Chapter 9.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK ,100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1-MIN 10 FT. AG ANMLS 100 FT	50 FT	RES 35FT. AG-UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Density 1in 10
SF 20: Single Family Chapter 10.0 Calumet Co. #52	Calumet Co. SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW. COUNTY TRUNK ,100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW Set back averaging as listed in 4.13.	Sewer 65ft. Un-Sewered 100 ft.	10 ft side-Both sides. ACC BLD. 5 ft -SIDE & REAR.	75 FT High Water Mark. 25 FT Principal Bldg. ACC. Bldg 5 ft	Calumet Co. Within 75 ft. of highwater. 35 ft. Principal 35 ft. ACC. Bldg. Back Lot 18 ft. ACC Bldg. Front lot 16ft.	20,000 sq ft single. Density 2.5 in 1
MC: Mixed Use Commercial Chapter 11.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL. STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150' SINGLE 150' DUPLEX	RES- 15 FT ACC BLD1.1-MIN 10FT. AG ANMLS 100 FT COMM. 15 FT	25 FT	RES 35FT. AG-UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	20,000 sq ft single. 30,000 sq ft R-2 Density 2.5 in 1
RC: Recreational Commercial Chapter 12.0	SUB-DIV-30FT RW PRIVATE RD 45FT CL STATE HWY 125 CL 75FT RW.COUNTY TRUNK, 100'CL 60'FT RW.TOWN 83 FT. CL 50FT RW.	150'	RES- 25 FT ACC BLD1.1-MIN 10FT. AG ANMLS 100 FT COMM. 15 FT	25 FT	RES 35FT. AG-UNLIMITED. ACC BLD PER ZONNG DISTRICT. CUP.	1 ACRE Unsewered. Density 2 in 1
Please check standards in all zoning districts for more information.						

4.8 Off-Street Parking.

A) General Requirements.

- 1) In all districts, and in connection with every use, there shall be provided off- road parking stalls at the time any use or structure is erected, moved, or enlarged.
- 2) Adequate access to a public road shall be provided for each parking space.
- 3) The size of each parking space shall not be less than 190 square feet exclusive of the space required for ingress and egress.
- 4) Location of parking stalls or driveway except in residential districts shall not be closer than 25 feet to a residential district lot line. The parking stalls shall be located on the same lot as the principal use but not over 400 feet from such use.
- 5) All recreational vehicles, trailers, campers, fifth wheels & popup campers shall be parked or stored either in a garage or accessory building or in the side or rear yards, subject to the side and rear yard requirements of that district. No more than two such vehicles may be stored outdoors.

B) Off-Road Loading and Unloading Space. On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public road or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.

- 1) Retail Business - One (1) space of at least 10x25 feet for each 3,000 square feet of floor area or part thereof.
- 2) Wholesale and Industrial - One (1) space of at least 10 x 50 feet for each 10,000 square feet of floor area or part thereof.
- 3) Bus and Truck Terminals - Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.

C) Number of Parking Spaces Required.

- 1) Dwelling Units -Two (2) spaces for each dwelling unit.
- 2) Hospitals, dormitories, lodging and boarding houses - One (1) space for each two beds plus 1 space for each 3 employees.
- 3) Hotels and Motels - One (1) space for each guest room plus One (1) space for each 3 employees.
- 4) Nursing Homes - One (1) space for each 5 beds plus One (1) space for each 3 employees.
- 5) Medical, Veterinary and Dental Clinics - Ten (10) spaces for each Doctor.
- 6) Churches, community centers, and other places of public assembly - One (1) space for every 5 seats.
- 7) Colleges, Secondary and Elementary Schools - one (1) space for each 2 employees plus one space for each 10 students of 16 years of age or more.
- 8) Restaurants, Bars, Places of Entertainment, Repair Shops, Retail and Service Stores - One (1) space for each 150 square feet of floor area and one (1) space for each 2 employees.
- 9) Manufacturing & Processing Plants & Warehouses - One (1) space for each 2 employees.
- 10) Financial Institutions, Business, Government, & Professional offices - One (1) space for each 300 square feet of floor area and 1 space for each 2 employees.

- 11) Funeral Homes - One (1) space for each 4 seats.
- 12) Lodges & Clubs - One (1) space for each 5 members.
- 13) Automobile Repair Garages - One (1) space for each regular employee plus 1 space for each 250 square feet of floor area used for repair work.
- 14) Gasoline Filling Stations – Three (3) spaces for each grease rack or similar facility plus 1 space for each attendant.

4.9 Signs. Zoning District - Types of Signs Permitted.

Zoning District	Sign Type
Wetland District (W)	Calumet County
General Ag. District (GA)	1, 2, 3,4,5,6
Heartland (HL)	1, 2, 3, 5, 6
Single family Residential (SF 20)	1, 2, 3, 5, 6
Mixed Use Commercial (MC)	1, 2,3,4,5 & 6
Recreational Commercial (RC)	1, 2, 3,4,5,6

A) Types of Signs, Maximum Size, Number and Location:

- 1) **Type 1** – Official traffic control signs, and informational or directional notices erected by federal, state or local units of government. Official signs may be placed within the highway right – of – way. No permit required.
- 2) **Type 2** – Directory Signs advertising a business or activity conducted, an area of interest, or a service available, at a specific location. Such signs shall not be more than 24 square feet in gross area. There shall not be more than two such signs relating to any one such use in the approaching direction along any highway. Such signs may be placed at the right-of – way line of the highway and shall be 100 ft. from a lot line and 300 ft. from a residential driveway. A larger number of signs may be permitted by the Town Board if the Town Board shall find it necessary for directing the traveling public. Permit required.
- 3) **Type 3** – Signs advertising a customary home occupation or professional office. Such signs shall not exceed 12 square feet in gross area, shall be located on the premises for which it is advertising, shall be setback a minimum 10 feet from the right-of way, if illuminated shall be indirectly lighted, and such sign is not allowed to be scrolling or a flashing type sign. No Permit required.
- 4) **Type 4** – Signs on or attached to agricultural, commercial and industrial buildings advertising a business conducted or a service available on the premises. Either attached to the building or a free standing pylon type sign. Such signs shall not be more than 200 sq. ft. in total gross area and shall have 10 ft. of vision clearance under those signs. Frames or supports for those signs shall be counted in the square footage if they are more than 12 inches wide. Signs that follow the setback in the district they are located, do not need the vision clearance under them. No sign shall be higher than the maximum height limitation permitted in the district which it is in. Scowling or flashing signs must not be so bright as to cause a public safety hazard. Permit required.
- 5) **Type 5** – Political message signs during an election campaign, charitable or religious events, county fairs, fund raisers for schools, real estate for sale signs, volunteer fire or rescue department’s events, Contractor or construction type signs, platted sub-divisions

up to two per development. Such signs may be a maximum of 32 square feet in size, a maximum of one such sign per property totaling 32 square feet in gross area. Political and event signs may be in place up to 1 month prior to an event or election and must be removed within 7 days of the event or election. Real estate for sale signs may be placed while a property is for sale and must be removed 14 days after the closing sale of a property. Contractor signs may be in place 30 days prior to the start of a project and the completion of a construction project. One sign shall be allowed per contractor working on the project. No permit required.

- 6) **Type 6** – Recreational directory signs indicating the direction to a cottage, resort, residence private beach or similar use. Such signs shall not be more than 12 sq ft in gross area. Where a common posting standard is provided all such signs shall be attached to the standard recreational directory. The resulting composite sign shall not exceed 100 sq. ft. in gross area. Signs may be placed at the right-of-way line of highways. Permit required.

4.10 Fences.

- 1) **Permit Required** No fence shall hereinafter be located, moved, reconstructed, extended, enlarged, converted or structurally altered without being in conformity with all the structural requirements of local and State building codes. All fences, shall present the non-structural (finished) face outward. A permit is required for all fences that are greater than (4) feet in height, or located in a front yard. Ag fences in the General Ag. District and the Heartland District do not require a permit.
- 2) **Fences Permitted.** The following fences are permitted subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:
 - a) Fences in all districts are permitted up to the property lines. It is the property owner's responsibility to know where the actual lot line is located.
 - b) Screening erected, placed, maintained or grown in a required front or street yard shall not exceed a height greater than (4) feet above the curb level or its equivalent and shall not exceed a height of (3) feet within the vision clearance areas clearance areas established 4.10 (5).
 - c) A snow fence shall be permitted in all districts when comprised of wooden pickets, including plastic snow fence, bound together by wire and not exceeding 4 feet in height and removed between May 1st and November 1st of each year. No privately owned snow fence shall extend beyond the Highway right -of -way line.
- 3) **Agricultural Fences** in the General Ag. Heartland and the Mixed Use Commercial districts shall be permitted provided they do not extend into the highway or road right-of way. Barbed wire and or electric type Agricultural fences are only allowed in the S.F.20 district, where the S.F.20 butts up against the General Ag. Or the Heartland district. No permit is required.
- 4) **Residential fences** Are permitted up to the property lines in all districts subject to the following.
 - a) Fences shall not be greater than (6) six feet high in the side yard and the rear yard or greater than (4) four feet high in the street yard, measured from the average

grade of the yard that they are being installed in. Berms or raised flower beds cannot be used in the average height measurement.

- b) Fences or walls within 75 feet of the ordinary high water mark cannot be higher than (4) four feet tall and must be 50% see through.
- c) Fences along, roads, private roads, easement's or the front yard setbacks cannot be higher than (4) four feet high and must be 50% see through.
- d) No fence or wall which incorporates barbed top spikes or razor wire shall be permitted in any district.
- e) All fences, shall present the non-structural (finished) face outward.
- f) Reference of "up to the property line" shall mean adjacent to but not overlapping including not obscuring vision lines to survey markers that mark said property line. It is the responsibility of the property owner who is installing the fence to know where the lot line is.
- g) Fences must be of a material normally used and listed as fence material. Stacked concrete blocks, pole barn metals, razor wire, high voltage electrically charged or similar type material type fences will not be allowed.
- h) A Zoning Permit is required.

5) Required Vision Clearance.

- a) In order to provide adequate vehicular vision, no fence structure, screening, vegetation, or embankment shall be erected, placed, maintained or grown between the heights of (3) three feet and (10) ten feet above the curb level or its equivalent within the triangular space formed by the intersection and points a distance along the intersecting lines as follows.
- b) Two (2) street right -of-ways 25 feet.
- c) Street right-of-way and a private road or easement 10 feet.
- d) A fence so designed, constructed and maintained to be at least (90)% percent open for through vision may be constructed in such vision clearance area.

4.11 Urban Agriculture.

1) Chickens.

- a) No more than 6 chickens are permitted on a property; roosters are prohibited.
- b) Eggs shall not be sold on the premise.
- c) Chickens are not permitted within a front yard area.
- d) Chickens shall be provided a sanitary and adequately-sized, covered enclosure, or coop, and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure, or yard, at all times.
- e) A covered enclosure or coop shall be setback at least 40 feet from any neighboring residence.
- f) A covered enclosure or coop shall be setback at least 15 feet from any side or rear property line.
- g) The covered enclosure or coop shall be constructed in a workmanlike manner and be maintained at all times.

(2) Rabbits

- a) No more than 12 adult rabbits are permitted on a property.
- b) Rabbits are not permitted within a front yard area.
- c) Rabbits shall be provided a sanitary and adequately-sized, covered enclosure, and shall be kept in the enclosure or a sanitary and adequately-sized and fenced enclosure, or yard at all times.
- d) A rabbit enclosure shall be setback at least 40 feet from any neighboring residence.
- f) A rabbit enclosure shall be constructed in a workmanlike manner and be maintained at all times.
- g) A rabbit enclosure that consists of a small, movable cage may be placed no closer than 5 feet from any side or rear property line.

(3) Bees.

- a) No more than one standard hive (colony) is permitted on a property.
- b) The hive shall not exceed 6 feet in height.
- c) The hive is not permitted within a front yard area.
- d) The hive shall be setback at least 40 feet from any neighboring residence.
- e) The hive shall be setback at least 15 feet from any side or rear property line.

(4) Conditions.

- a) The raising and keeping of chickens, rabbits, and bees within a Single Family Residential or Mixed Use Commercial zoning district shall be permitted.
- b) A Zoning Permit is required for the raising and keeping of chickens, rabbits, and bees. A permit may be revoked for failure to comply with provisions of the zoning code and, once revoked, shall not be reissued.
- c) No animal shall cause any nuisance, unhealthy condition, public threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.
- d) Animals shall be kept in a sanitary condition, be provided with fresh water, and adequate amounts of food at all times.
- e) Animals raised and kept on the property for food shall not be slaughtered outdoors.
- f) Properties where animals are kept shall be kept in a sanitary condition.

4.12 Grades.

- a) When a storm water management plan or drainage plan is nonexistent for a lot, the final grade and maintained grade shall not be higher than the average of the grade on the adjacent properties. The Code Administrator shall require that a grading and drainage plan be prepared by a professional and approved prior to the issuance of a zoning permit for new construction. Dependent on the amount of grading proposed, the Code Administrator shall require the plan include a cross section of the adjacent parcels, and the parcel subject of the grading, to ensure the proposed grading will not result in adverse runoff onto the adjacent parcels. In areas where drainage is not parallel to lot lines, the site plan for the zoning permit application shall address the direction and handling of surface water flow. Water from the driveway shall be diverted to a ditch or swale and not toward the Town road.

4.13 Setback Averaging, Setback Requirements (S.F. Zoning District only).

- 1) **Road.**
 - a) **Public Road. Follow 4.7 of this code.**
 - b) **Private Road. Follow 4.7 of this code.**

- 2) **A reduced road setback may be permitted for a proposed Primary and Accessory structure and shall be determined as follows.**
 - a) **Where there is an existing Primary or Accessory structures in both directions, the setback shall equal the average of the distances that the two existing Primary or Accessory structures are set back from the road provided that both structures are located on adjacent lots and are located within 250' of the proposed Primary or Accessory structure.**
 - b) **Where there is an existing Primary or Accessory structure in only one direction on an adjacent lot and that structure is within 250' of the proposed accessory structure, the setback shall equal the average of the setback of the existing Primary or Accessory structure and the required setback listed in chart 4.7 of this code.**

- 3) **Every effort should be made to follow the setbacks in the district. Where following those setbacks will cause problems due to grades, water drainage issues, general ascetics or line of site problems it shall be up to the Zoning Administrator to allow set back averaging as outlined above. If setback averaging causes any issues due to grades, drainage, ascetics, line of site or other safety issues as he/she see's possible, the standard setbacks shall be followed in the zoning district.**

- 4) **Setback Averaging only applies to set back from roads, private roads, or easements. It does not apply to side yard, backyard or fence setbacks.**

Section 5.0 Districts.

5.1 Identification of Districts. For the purposes of this ordinance, the Town of Brothertown, Calumet County, Wisconsin is hereby divided into 6 districts as follows:

- A) W Wetland
- B) GA General Agricultural
- C) HL Heartland
- D) SF20 Single-Family Residential-20,000
- E) MC Mixed Use Commercial

- F) RC Recreational Commercial

5.2 District Boundaries.

- A) The boundaries, of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Brothertown, Calumet County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of the Town of Brothertown. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein.
- B) The district boundaries, unless otherwise indicated, are street or highway center lines, old railroad right-of-way lines extended, lines parallel or perpendicular to such street, highway or railroad lines, the shore line of lakes or streams, lot or alley lines, section lines, quarter section lines, or quarter-quarter section lines, and when the designation on the district map indicates that the various districts are approximately bounded by any of the above lines, such lines shall be construed to be the district boundary line.
- C) District boundaries, not otherwise designated, shall be determined by the use of the scale shown on the Zoning Map.

Section 6.0 Left Blank for future use.

Section 7.0 (GA) General Agricultural District.

7.1 Purpose. The intent of the (GA) General Agriculture District is to provide for agriculture and related uses in those areas with adequate soil types, drainage and topography for farming; for residential development subject to the density standards of this district; and for limited commercial and industrial development.

7.2 Permitted Uses.

- 1) Aquaculture.
- 2) Beekeeping.
- 3) Crop or forage production.
- 4) Enrolling land in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program.
- 5) Family daycare.
- 6) Floriculture.
- 7) Home businesses and occupations.
- 8) Livestock defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- 9) Nursery, sod, or Christmas tree production.
- 10) Single-family and two-family dwellings. Manufactured Dwelling, Manufactured Home.
- 11) Riding stables and boarding facilities.
- 12) Forest management.

7.3 Permitted Accessory Uses.

- 1) Agricultural buildings and structures.
 - a) No height restrictions.
 - b) No size restrictions.
- 2) Horse stables where the horses are for the owners' private use.
- 3) Private swimming pools located on the same lot as the principal residential structure.
- 4) Roadside stands, one (1) per operating farm, for on-premise sales of farm products produced thereon.
- 5) Unattached private garages and accessory buildings.
 - a) Structure limited to no greater than 2400 square feet, not to exceed 20 feet in height.
 - b) The accumulative square footage of all accessory buildings and accessory structures cannot exceed 2400 square feet on any one property.
 - c) Contractor storage activities,(7.3)- 7) a) thru e) shall not count against the square footage of this section but must be requested by an active contractor licensed by the State of Wisconsin Chapter SPS-305.
 - d) The total square footage of all accessory & primary buildings cannot cover more than 30% of the total square footage of that property.
- 6) Greenhouses where products sold are grown on site.
- 7) Contractor storage activities.
 - a) Only one structure permitted.
 - b) All supplies/equipment are housed within an enclosed structure.
 - c) No sales, or other commercial activity of any kind are conducted.
 - d) Such proposed Accessory Use must be clearly interpreted, by an authorized town employee, as being "subordinate to and customarily incidental to" a pre-existing, permitted, principal use on the same premises.
 - e) Structure limited to no greater than 3200 square feet, not to exceed 24 feet in height.

7.4 Conditional Uses.

- 1) Private aircraft landing field, hanger, or accessory structures.
- 2) Automobile repair shops on the same lot as the principal residential structure.
- 3) Bed and breakfast.
- 4) Cemeteries.
- 5) Churches and affiliated uses.
- 6) Commercial animal kennels on the same lot as the principal residential structure.
- 7) Construction firms and construction equipment or materials storage.
- 8) Day care licensed by the State of Wisconsin.
- 9) Farm or garden equipment or supply dealers.
- 10) Golf courses, including private golf or country club.
- 11) Junk, salvage and wrecking yards.
- 12) Miniature golf, golf driving range, archery range, and similar facilities.
- 13) Mini-warehousing and nonagricultural related storage facilities.
- 14) Plumbing, electrical, heating and air-conditioning equipment dealers.
- 15) Processing of agricultural products such as but not limited to by specific enumeration,

- canning, dairy processing, livestock butchereries, livestock sales or commercial grain storage facilities.
- 16) Public buildings.
 - 17) Public parks, trails, and recreational areas.
 - 18) Fur farms.
 - 19) Non-metallic mining, including processing and storage, provided it complies with all standards set forth in *****Non-Metallic Mining.
 - 20) Sales and servicing facilities for agricultural related machinery or equipment.
 - 21) Small engine repair and sales and welding activities and farm implement repair activities in conjunction with the pre-existing agricultural use.
 - 22) Sporting goods.
 - 23) Sportsmen's club and related activities to include, but not limited to; rifle ranges, field shooting and the authorized raising of small game.
 - 24) Storage and sale of feed, fertilizer and other products essential to agricultural production.
 - 25) Taverns.
 - 26) Telecommunication antennas and towers. (See section 14.0)
 - 27) Temporary storage and mixing of cement, asphalt, or road oils.
 - 28) Utility installations, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicle.
 - 29) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
 - 30) Wind energy facilities that are required to comply with standards set forth by the Town of Brothertown and Calumet County Wind Energy Facility Ch 79 Ordinance.
 - 31) Commercial greenhouse.
 - 32) Art galleries and craft stores in existing building on premise.
 - 33) Wind energy facilities less than 170 feet in height with a 60-foot rotor diameter and nameplate capacity of less than 100 kilowatts or less. (1.1 times height of tower setback from lot line.)
 - 34) Moved Home.
 - 35) Accessory Structures, that will have a bathroom group, (toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

7.5 Standards.

- 1) Residential Density - 1 to 20 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - One (1) acre.
- 3) Minimum Lot Width - 150 feet.
- 4) Front Yard Setbacks - Follow 4.7. of this code
- 5) Rear Yard Setback - Follow 4.7. of this code.
- 6) Side Yard Setbacks - Follow 4.7. of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the

building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.

- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs-As permitted - follow 4.9 of this code.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

Section 8.0 (W) Wetland District.

8.1 Purpose. This district is intended to prevent the destruction and depletion of the Town of Brothertown's wetlands; protect watercourses and navigable waters and the public rights therein; to maintain the purity of water and lakes and streams and to prevent pollution thereof; and to protect spawning grounds, fish, and habitat for wild flora and fauna. Furthermore, this district is intended to prevent the changing of the natural character of wetlands.

8.2 Permitted Uses.

- 1) Agricultural use provided no farm buildings are constructed.
- 2) Harvesting of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds.
- 3) Hiking trails, bridle paths, including those built on pilings.
- 4) Hunting preserves and hunting blinds.
- 5) Nonresidential buildings used solely in conjunction with the raising of waterfowl, fish or other wetland or aquatic animals.
- 6) Parks, picnic areas, and similar uses.
- 7) Sustained yield forestry.
- 8) Telephone and electrical power transmission lines.
- 9) Wildlife ponds.

8.3 Conditional Uses. (Unless further restricted by 8.5)

- 1) Greenhouses with on-site retail sales.
- 2) Sportsmen's clubs.
- 3) Farm related residences.
- 4) Single family residences.
- 5) Filling, drainage or dredging.
- 6) Relocation of any watercourse.
- 7) Removal of topsoil or peat.
- 8) Utility buildings or similar structures.
- 9) Other uses described in the Calumet County Zoning Code 82-24.

8.4 Shoreland Zoning in the Wetland District.

- A) All uses whether Permitted Uses or Conditional Uses could possibly be in a flood plain or Shoreland Zoning area or under the Department of Natural Resources (DNR) jurisdiction.
- B) Zoning Permits may be obtained from the Calumet County Resource Management Department.

8.5 Wetlands in the Wetland Zoning District.

- A) Land uses in wetlands are regulated by N.R. 151 of the Wisconsin Administrative Code. Wetlands are an overlay in all districts. Check with the DNR for an official determination of a Wetland Overlay.

Section 9.0 (HL) Heartland District.

9.1 Purpose. The Heartland District is primarily intended to provide for agricultural uses, for residential development subject to the density standards of this district, and for limited commercial and industrial development. All residential, commercial, and industrial structures shall be connected to municipal or community sewer and water services where available and served by on-site septic and well systems where they are not.

9.2 Permitted Uses.

- 1) Aquaculture.
- 2) Beekeeping.
- 3) Crop or forage production.
- 4) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- 5) Family day care in home.
- 6) Floriculture.
- 7) Forest management.
- 8) Home businesses and occupations.
- 9) Livestock defined as equine animals, bison, farm-raised deer, fish, captive game birds, ratites, and camelids, and further defined as cattle, swine, poultry, sheep and goats only if they are being raised as pets or as a hobby versus raising them as a primary source of income.
- 10) Nursery, sod, or Christmas tree production.
- 11) Single and two-family dwellings.
- 12) Manufactured Home, Manufactured Dwelling.

9.3 Permitted Accessory Uses.

- 1) Agricultural buildings and structures.
- 2) Horse stables where the horses are for the owner's private use.
- 3) Private swimming pools located on the same lot as the principal residential structure.
- 4) Roadside stands, one (1) per operating farm, for on-premise sales of farm products produced thereon.

- 5) Unattached private garages.
 - a) Structure limited to no greater than 2400square feet, not to exceed 20 feet in height.
 - b) The accumulative square footage of all accessory buildings and accessory structures cannot exceed 2400 square feet on any one property.
 - c) Contractor storage activities,(9.3)- 7) a) thru e) shall not count against the square footage of this section but must be requested by an active contractor licensed by the State of Wisconsin Chapter SPS-305.
 - d) The total square footage of all accessory & primary buildings cannot cover more than 30% of the total square footage of that property.
- 6) Greenhouses-where products are sold and grown on-site.
- 7) Contractor storage activities.
 - a) Only one structure permitted.
 - b) All supplies/equipment are housed within an enclosed structure.
 - c) No sales, or other commercial activity of any kind are conducted.
 - d) Such proposed accessory use must be clearly interpreted, by an authorized town employee, as being “subordinate to and customarily incidental to” a pre-existing, permitted, principal use on the same premises.
 - e) Structure limited to no greater than 3200 square feet, not to exceed 24 feet in height.

9.4 Conditional Uses.

- 1) Automobile repair shops on the same lot as the principal residential structure.
- 2) Bed and Breakfast.
- 3) Cemeteries.
- 4) Churches and their affiliates.
- 5) Commercial animal kennels and/or breeding activities.
- 6) Construction firms and construction equipment or materials storage.
- 7) Day care licensed by the State of Wisconsin.
- 8) Golf courses.
- 9) Hotels and motels.
- 10) Mini-warehousing and nonagricultural related storage facilities.
- 11) Plumbing, electrical, heating and air-conditioning equipment dealers .
- 12) Private golf or country club.
- 13) Public buildings.
- 14) Public parks, trails, and recreation areas.
- 15) Resorts, tourist cottages or cabins, commercial camping, ski lodges, group camps, and similar facilities.
- 16) Restaurants.
- 17) Riding stables and boarding facilities.
- 18) Small engine repair and welding activities and farm implement repair activities in conjunction with pre-existing agricultural use.
- 19) Sporting goods.
- 20) Sportsmen’s clubs and related activities to include, but not limited to; rifle ranges, field shooting and the authorized raising of small game.
- 21) Taverns.
- 22) Telecommunication antennas and towers.
- 23) Telephone buildings, exchanges, lines, and transformer stations, but excepting service

- garages and storage yards.
- 24) Utility installations, including public utility buildings and structures for gas, water, and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicles.
 - 25) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
 - 26) Wastewater and/or sewage treatment facilities.
 - 27) Water storage facilities and accessory structures.
 - 28) Commercial greenhouses.
 - 29) Art gallery and craft store in existing building on premise.
 - 30) Moved Home.
 - 31) Accessory Structures, that will have a bathroom group, (toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

9.5 Standards.

- 1) Residential Density - 1 to 10 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - One (1) acre.
- 3) Minimum Lot Width - 150 feet.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - follow 4.7 of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs - As permitted under Section 16.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

Section 10.0 (SF 20) Single-Family Residential District (20,000 Square Feet).

10.1 Purpose. The Single-Family Residential District is intended to primarily provide for quiet, pleasant residential living areas along the shores of Lake Winnebago subject to the density standards of the district.

10.2 Permitted Uses:

- 1) Boat Houses.
- 2) Crop or forage production
- 3) Home Occupation.
- 4) Parks and Residential Trails.
- 5) Single family dwellings.
- 6) Utility Facilities- Type A. (66.06)
- 7) Home Artisan
- 8) Fences
- 9) Urban Agriculture.
- 10) Manufactured Home, Manufactured Dwelling.

****** Note any Permitted Use listed above which requires lot coverage or falls under the rules of NR115 will require site plan approval and a sanitary permit as in the Calumet County Ordinance.**

10.3 Conditional Uses.

- 1) Accessory structures that will, have a bathroom group, (toilet, sink, shower), or any other plumbing or running water other than a floor drain. (Building permit and sanitary permit required.)
- 2) Bed and breakfast.
- 3) Cemeteries.
- 4) Churches and affiliated uses.
- 5) Day care licensed by the State of Wisconsin.
- 6) Public buildings.
- 7) Utility installations, type B, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, substations, power generating plants including storage of equipment vehicle.
- 8) Mobile Service Facilities
- 9) Moved Home.

****** Note any Conditional Use listed above which requires lot coverage or falls under the rules of NR115 will require site plan approval and a sanitary permit as in the Calumet County Ordinances.**

10.4 Permitted Accessory Uses.

- 1) Unattached private garages and accessory buildings on the front lot.
 - a) Structures not to exceed 1000 square feet.
 - b) Structures not to exceed 16 feet in total height.
 - c) Total Square footage of all accessory buildings added up proposed and existing not to exceed 1000 square feet. (Excluding boat house.)
- 2) Private swimming pools located on the same lot as the principal residential structure.
- 3) Accessory Buildings on a back lot.
 - a) Only one back lot accessory structure is permitted on a ****vacant back lot**. Contiguous non-conforming lots, that are under common ownership, shall be considered a single parcel, unless the parcel is re-divided to conform to the dimensional requirements to meet the criteria of the zoning district in which the lot is located.
 - b) Location: A back lot accessory structure shall not be erected prior to the principal structure it is intended to serve and shall be located on the same beach road as the principal structure it serves.
 - c) Floor Area. The back lot accessory structures shall not exceed a total of **2400** square feet in size. This includes all existing and proposed back lot accessory structures. 2.4.e lot coverage applies.
 - d) Height: The back lot accessory structure shall not exceed a height of **18 feet**.
 - e) No portion of a back lot accessory structure shall be used for human Habitation.

****** Lot was vacant at the time of the passing of this ordinance.

10.5 Standards.

- 1) Residential Density – 2.5 in1 as per Calumet County Land Division Ordinance.
- 2) Minimum Lot Area – 20,000 Sq. Ft. Single family. Follow 4.7
- 3) Minimum Lot Width - 100 feet. Follow 4.7 of this code.
- 4) Front Yard Setbacks - Follow 4.7 of this code.
- 5) Rear Yard Setback - Follow 4.7. of this code.
- 6) Side Yard Setbacks - Follow 4.7.of this code.
- 7) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height.Follow 4.7 of this code.
- 8) Accessory Building Setback Front Lot- - Follow 4.7 of this code.
- 9) No accessory building on the front lot may be erected before the primary structure is erected on a property.
- 10) Back lot Accessory Structure Setback- Follow 4.7 of this code.
- 11) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 12) Small Wind Towers - 1.1 x height of tower from the property line.
- 13) Signs-As permitted - follow 4.9 of this code.
- 14) Off street parking requirements - follow 4.8 of this code.
- 15) Plumbing-running water any accessory building per 10.3(1) Conditional Use.
- 16) Lots less 300 ft from high water mark.15% lot coverage new lot, 30% existing lot.
- 17) All dwellings shall conform to minimum floor size, one story 1100 sq. ft. two story 960

sq. ft. living area excluding garages. Square footage may be reduced only if it conflicts with the no more than 30% lot coverage.

10.6 Prohibited Accessory Structures: Boats, truck bodies, semi-trailer boxes, mobile homes, buses, railroad car, shipping containers, temporary structures and trailers shall not be used as accessory structures.

10.7 Relationship to Calumet County Shoreland Zoning. Lands located in Shoreland areas of the Town of Brothertown, as identified in NR 115 of the Wisconsin Administrative Code, or other related State Shoreland Zoning regulations pertaining to the size, height location, water setback, lot coverage/ impervious surface or similar characteristics of structures shall be regulated by Chapter 52 – Shoreland Zoning of the Calumet County Code as that rule applies. Other dimensional and use characteristics located in the shoreland area such as side yards, road setbacks and use shall be governed by the Town of Brothertown using the regulations herein.

Section 11.0 (MC) Mixed-Use Commercial District.

11.1 Purpose. The Mixed Use Commercial District is intended to provide for a mix of residential and commercial subject to the density standards of this district. All residential and commercial structures shall be connected to municipal or community sewer and water services where available and served by the on-site septic and well systems where they are not.

11.2 Permitted Uses.

- 1) Single and two-family dwellings.
- 2) Manufactured Home, Manufactured Dwelling.
- 3) Family Day Care home.
- 4) Home businesses and occupations.
- 5) Cemeteries.
- 6) Churches.
- 7) Libraries.
- 8) Museums.
- 9) Town Hall/Community Centers.
- 10) Parks and recreational trails.
- 11) Adult-oriented establishments. (Reference required license permit)
- 12) Urban Agriculture.

11.3 Conditional Uses.

- 1) Banks and other financial institutions.
- 2) Bed and Breakfast.
- 3) Convenience stores, provided that all gasoline pumps, storage tanks, and accessory equipment be located at least thirty (30) feet from an existing or officially mapped street right-of-way line.
- 4) Doctors and dentist office.
- 5) Funeral homes.

- 6) Personal services including but not limited to barber shops, shoe repair shops, coin-operated laundry and dry cleaning establishments (Laundromats), and tailoring.
- 7) Photographic studios and commercial photography establishments.
- 8) Plumbing, electrical, heating and air-conditioning equipment dealers.
- 9) Restaurants and taverns.
- 10) Retail stores.
- 11) Automobile and truck sales, new and used.
- 12) Automobile passenger trailer, mobile home, or camper sales.
- 13) Automobile repair shops including shops for general mechanical repairs, body repair and Tire repair, and specialized automobile repairs, such as electrical, battery, or radiator repair, glass replacement or repair, carburetor repair, or wheel alignment but not including the rebuilding, retreading, recapping, vulcanizing or manufacturing of tires.
- 14) Automobile washing, cleaning or polishing.
- 15) Billiard and pool establishments.
- 16) Bowling alleys.
- 17) Building materials sale or storage including lumber.
- 18) Commercial sports clubs, athletic fields, arenas, and similar facilities.
- 19) Construction firms and construction equipment or materials storage.
- 20) Day care centers.
- 21) Duplicating, blueprinting, photocopying, addressing, mailing and stenographic services.
- 22) Equipment (construction, industrial, etc.).
- 23) Farm or garden equipment or supply dealers.
- 24) Food storage and/or packaging including rental food lockers.
- 25) Greenhouses or nurseries.
- 26) Hotels and motels.
- 27) Fuel oil/liquid petroleum dealers.
- 28) Mini-warehousing and nonagricultural related storage facilities.
- 29) Miniature golf, golf driving range, archery range, and similar facilities.
- 30) Motorcycle and other small engine or motor sales, service and repair establishments.
- 31) Offices or meeting places of professional, civic, social, business or fraternal organization, labor unions, and political religious, charitable or other non-for-profit organizations.
- 32) Recreational vehicle sale, rental, service, repair, testing, demonstration or other use including motorcycles, motorized bicycles, go-carts, snowmobiles, aircraft, motorboats, other watercraft, or any other motorized vehicles or their components.
- 33) Rooming and boarding houses.
- 34) Veterinary offices and facilities, and/or boarding facilities for domestic animals.
- 35) Wholesale merchandise establishments.
- 36) Utility offices.
- 37) Moved Homes.
- 38) Accessory Structures, that will have a bathroom group, (toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

11.4 Permitted Accessory Uses.

- 1) Unattached private garages and accessory buildings.
 - a) Structure not to exceed 2400 square feet.
 - b) Structure not to exceed 18 feet in total height.

- 2) Private swimming pools located on the same lot as the principal residential structure.
- 3) Residential quarters for the owner or proprietor, located in the same building as the business.

11.5 Prohibited Accessory Structures: Boats, truck bodies, semi-trailer boxes, mobile homes, buses, railroad car, shipping containers, temporary structures and trailers shall not be used as accessory structures.

11.6 Standards.

- 1) Residential Density - 2.5 to 1 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - 20,000 square feet for single family and 30,000 square feet for a duplex.
- 3) Minimum Lot Width - 150 feet single family-150 feet for duplexes.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - follow 4.7 of this code.
- 7) Side Yard Setback - 15 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
- 11) No accessory building may be erected before the primary structure is erected on a property.
- 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
- 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
- 14) Small Wind Towers - 1.1 x height of tower from the property line.
- 15) Signs - As permitted follow 4.9 of this code.
- 16) Off street parking requirements - follow 4.8 of this code.
- 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

Section 12.0 (RC) Recreational Commercial District.

12.1 Purpose. The Recreational Commercial district provides for the continuation of some agricultural uses and the development of those recreational uses which are consistent with the maximum recreational uses of the water and its shoreland. The development of some residential uses is permitted providing that adequate sewage disposal facilities can be provided.

12.2 Permitted Uses.

- 1) New farm buildings on any existing farm provided that the buildings in which farm animals are kept shall be at least 100 feet from the nearest lot line on a non- farm lot.
- 2) One and two family dwellings.
- 3) Crop farming, grazing.
- 4) Telephone, telegraph and power transmission towers, poles and lines including transformers, sub stations, equipment housings and other necessary appurtenant equipment and structures.
- 5) Accessory uses permitted in the heartland district.
- 6) Woodlots and tree farms.
- 7) Home Occupations.
- 8) Recreational trails, public or private.
- 9) Manufactured Home, Manufactured Dwelling.
- 10) Mobile Home in Mobil Home Park. (See definition).

12.3 Conditional Uses.

- 1) Summer theaters and outdoor music amphitheaters or music festival grounds.
- 2) Hotels, motels, condo's or resorts.
- 3) Golf courses or driving ranges.
- 4) Sale of bait, fish farms, fishing equipment and forest industries.
- 5) Trailer parks, campgrounds or mobile home parks.
- 6) Private clubs or lodges, sportsmen clubs, rifle ranges, game farms, field shooting and the raising of small game for sporting purposes.
- 7) Recreational complexes & public swimming pools.
- 8) Multiple family residential units, town houses and planned development units. (3 or more units)
- 9) Blacksmith shops, machine shops, welding shops, sheet metal shops.
- 10) Wholesale business.
- 11) Contractor storage building.
- 12) Small wind energy systems.
- 13) Moved Homes.
- 14) Accessory Structures, that will have a bathroom group, (toilet, sink, or shower),or any other plumbing or running water other than a floor drain.

12.4 Regulations and Standards.

- 1) Residential Density - 2.5 to 1 as per the Town of Brothertown Residential Density Map and Zoning map.
- 2) Minimum Lot Area - 20,000 square feet for single family and 30,000 square feet for a duplex.
- 3) Minimum Lot Width - 150 feet single family-150 feet for duplexes.
- 4) Front Yard Setbacks - follow 4.7 of this code.
- 5) Rear Yard Setback - follow 4.7 of this code.
- 6) Side Yard Setbacks - 15 feet commercial- follow 4.7 of this code.
- 7) Side Yard Setback - 25 feet. Buildings used for human habitation.
- 8) Buildings housing livestock or animal waste - 100 feet from lot line.
- 9) Height - No building or parts of buildings hereafter erected or altered for human habitation shall be more than two and one half stories and shall not exceed 35 feet in

- height. Agriculture related structures - No height restrictions.
- 10) Accessory Building Setback - A distance of 1.1 times the height of the wall of the building that is parallel to the lot line but in no case shall it be less than 10 feet in the side and rear yard.
 - 11) No accessory building may be erected before the primary structure is erected on a property.
 - 12) Structures used for Agriculture purposes may be considered the primary structure on a property.
 - 13) Flag lots - width at road right of way 33 feet. Flag lot setback 50 feet from front of the lot at the minimum lot width.
 - 14) Small Wind Towers - 1.1 x height of tower from the property line.
 - 15) Signs-As permitted - follow 4.9 of this code.
 - 16) Off street parking requirements - follow 4.8 of this code.
 - 17) All dwellings shall conform to these minimum square footages. One story 1100 sq.ft. Two story 960 sq. ft. first floor area excluding garages. Square footages may be reduced only if it conflicts with the 30% lot coverage.

Section 13.0 Section 13.0 Non-Metallic Mining.

13.1 Non-Metallic Mining. The purpose of this section is to regulate non-metallic mining operations in the Town in order to promote the public health, safety and general welfare; protect the demand for and economical extraction of non-metallic minerals; permit the development and utilization of non-metallic mineral resources in a manner compatible with neighboring land uses; and, to preserve environmentally sensitive areas and to minimize potential adverse environmental impacts of non-metallic mining operations through the utilization of best management practices. Nothing in this Ordinance is intended to supersede or interfere with Calumet County's reclamation ordinance. The Town's zoning ordinance and the County's reclamation ordinance are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of the Town's zoning ordinance irreconcilably conflicts with a provision of the County's reclamation ordinance, the provision imposing the greater duty or obligation on the non-metallic owner or operator shall govern.

In addition to the other provisions contained in this Ordinance, the Town shall take into consideration the following issues in determining whether a conditional use permit should be approved:

- A) The appropriateness of the proposed operation in relation to the existing nearby land uses.
- B) Any applicable recommendations of the Natural Resources Conservation Service technical guide.
- C) The effect of the proposed operation upon existing private and public water supplies.
- D) The economic effect(s) of the proposed operation on private enterprises and local government.

- E) The effect of the proposed operation on public health and safety.
- F) The location of the site with respect to floodplains and floodways of rivers or streams.

13.2 Applicability. This section is applicable to all operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel and non-metallic minerals such as asbestos, beryl, clay, feldspar, peat and talc. It includes, without limitation, operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and non-metallic minerals. Finally, it includes processes such as crushing, screening, scalping, dewatering and blending. The regulations contained herein apply to all surface areas from which materials are removed together with related storage and processing areas, areas where non-metallic mining refuse is deposited and areas disturbed by the non-metallic mining operation through activities such as the construction or improvement of roads and berms. This section does not apply to the following activities:

- A) Activities on less than 5 acres, for the exclusive use of the property owner, if no material is removed from the property.
- B) Pre-mining activities such as site surveying, coring, test pits for exploratory purposes only, mapping and other functions necessary solely for proper preparation of the permit application.
- 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 Department of Transportation and all other relevant governmental bodies.
- E) Excavation which by its 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, provided no material is removed from the property.
- G) Excavation for structures, parking areas and stripping of up to 1-1/2 feet of topsoil for the development of subdivisions, provided all topsoil is retained on the property.
- H) Regrading of property for aesthetic purposes that does not affect existing drainage, provided no material is removed from the property.
- I) Dredging operations under the jurisdiction of the U.S. Army Corps of Engineers and other governmental bodies.
- J) Ponds developed for wildlife purposes in conjunction with the Soil Conservation Service or Land and Water Conservation Department.
- K) Excavation activities related to sod farming.

- L) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility or a hazardous waste disposal facility, as the same are defined and regulated under the Wisconsin Statutes; provided, however, this section does apply to activities related to solid or hazardous waste disposal that are conducted at a non-metallic mining site separate from the solid or hazardous waste disposal facility, such as activities to obtain non-metallic minerals to be used for lining, capping, covering or construction berms, dikes or roads.
- M) Any other uses determined to be exempt by the Town.

13.3 Permit Application. Any application for a conditional use permit to conduct non-metallic mining operations in the Town shall include the following information. The Plan Commission or the Town Board reserves the right to require additional information, as circumstances warrant.

- A) **General Background Information.** All applications for a conditional use permit for non-metallic mining shall include the following general background information:
 - 1) The name, address and phone number of the property owner and the proposed operator if different from the owner.
 - 2) If the applicant is a corporation, partnership, limited liability company or limited liability partnership, the application shall include the exact name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent, if applicable; the names and addresses of all officers and directors, operating or managing partners or general partners; managing members or managers, whichever is applicable for the particular form of business.
 - 3) The name, address and phone number of an individual who is responsible for the day-to-day operation of the site and who will be the contact person for the Town.
 - 4) A statement that the applicant is familiar and in compliance with the provisions of this section, including the responsibility to reimburse the Town its reasonable costs and professional fees associated with the processing, review, issuance, administration and enforcement of this section of the Town's zoning ordinance.
 - 5) A signed copy of the lease or a letter signed by the owner of record authorizing the proposed operator to enter upon the owner's land for the purpose of non-metallic mining.
 - 6) A legal description and general location map of the tracts of land involved. (Note: The Town reserves the right to require a survey either with the application or prior to the issuance of a conditional use permit.)
 - 7) A plan of the site showing proposed and existing roads and drives, including all points of ingress and egress.
 - 8) A plan of the site showing the sources, quantity and disposition of both surface water and groundwater, which plan shall be prepared by a competent and qualified Wisconsin professional engineer, geologist or hydrologist.
- B) **Plan of Operation.** An operation plan that includes the following information:
 - 1) A map drawn to scale of 1 inch equals 200 feet.
 - 2) A written description explaining the mapped information, including, but not limited to,

the existing site and future expansion of the site; boundaries of previous excavations; storage of reclamation topsoil and methods of disposing of material not to be sold or reclaimed; areas for excavation, processing, manufacturing, stock-piling and phasing of these activities across the site over time; location and height of berms, fencing and vegetation to screen the operation from adjacent property owners.

- 3) Unless already included in the general information described above, roads used and to be used for transportation of excavated material, including all points of ingress and egress and an estimate of the maximum and average number of trucks entering and leaving the site on a daily basis; an estimate of the quantity and type of materials removed and to be removed from the site as well as the timetable to complete the excavation; a list of the type and quantity of equipment used or to be used; hours and days of operation; noise and dust control measures; and, a cross-section map showing in detail the estimated final depth of the excavation.
 - 4) Measured or estimated depth to groundwater and general groundwater flow direction at the site. Information from the Calumet County, Wisconsin Watertable and Aquifer Susceptibility Maps shall be used as a part of the reference documentation.
- C) A drainage and erosion control plan that includes the following information:
- 1) A map drawn to scale of 1 inch equals 200 feet.
 - 2) A written description detailing the mapped information; contours shown at no greater than 10 foot intervals, existing drainage ways, subsurface tile drains, pipes and culverts; existing floodplains, wetlands and water bodies; arrows showing the direction of surface water drainage; the impact of the non-metallic mining activity on adjacent property both upstream and downstream from the mining site in order to demonstrate that runoff rates from mining activity will not exceed pre-mining runoff rates of a 10-year 24-hour storm; location and design details of runoff detention facilities planned or constructed; and, temporary and permanent erosion control measures.
 - 3) A copy of the general Wisconsin Department of Natural Resources WPDES permit, if issued, or a copy of the application for the general permit.
- D) The application shall also include documentation confirming the receipt of all necessary local, county, state and federal approvals, if relevant, including Wisconsin Department of Natural Resource permits.
- E) A copy of the Wisconsin Department of Natural Resources NR135 Reclamation Plan filed with Calumet County or East Central Wisconsin Regional Planning Commission. (The applicant shall file a copy of the proposed NR135 Reclamation Plan with the Town at the same time the applicant files the document with Calumet County or East Central Wisconsin Regional Planning Commission in order that the Town may have a meaningful opportunity to provide comments on the proposed document.)

13.4 Berms and Related Landscaping. Applicant will construct and landscape the exterior berms as stripped overburden and topsoil become available from the quarry site or from suitable outside sources. Prior to the commencement of construction of such berms, the applicant will submit and obtain approval from the Town for a detailed berm, landscaping and related drainage and erosion control plan. Notwithstanding anything to the contrary, all berms shall be at least 8 feet above the surface of the center of the adjacent public road. Furthermore, berms half the

height of the largest wheel of equipment used in the mining operation will be installed around active mining areas that are not adjacent to public roads, but in no event of a lesser height than that required by the Mine Safety and Health Administration (“MSHA”). Only clean overburden from the mining site or suitable outside sources will be used in constructing the berms. The berms will have an aesthetically pleasing natural appearance and may be maintained in a natural rather than a manicured condition. The exterior of such berms will be kept free of noxious weeds, trash and other debris. The outward-facing slopes of such berms will not be steeper than three horizontal units to one vertical unit. The inner-facing slopes may be steeper, but must remain stable. The berms will be constructed so as not to result in flooding, concentrated runoff, inadequate drainage or excessive erosion or sedimentation.

13.5 Setbacks. The following setback standards shall apply:

- A) The setback requirements of this ordinance apply to all non-metallic mining activity including, without limitation, the storage of waste materials, inventory and equipment. The Town reserves the right to require greater setbacks for sand and gravel operations in order to protect the integrity of the sloped perimeters from erosion. The setback requirements below are inapplicable to berms or other forms of landscaping.
- B) All property operations, site and phase boundaries must be staked or otherwise prominently marked and the applicant shall notify the Town of the staking prior to the commencement of operations.
- C) The applicant shall comply with the following specific setback requirements:
 - 1) Setback for Town roads shall be not less than 83 feet from centerline of the right-of-way and for all other roads 100 feet from the centerline of the right-of-way.
 - 2) A minimum setback of 500 feet shall be maintained from all existing residences at the time of initial approval, unless a lesser setback is mutually agreed between the operator and the affected property owner, which lesser setback is reflected in a written easement or comparable document registered with the Calumet County Register of Deeds. A lesser setback may also be agreed upon between adjacent quarry operators.
 - 3) A setback of at least 50 feet along adjacent property lines, but in no event less than 500 feet from any residence unless the affected property owner consents as noted above.
 - 4) A setback of 1,200 feet from the property line of a landfill, unless a hydrogeologic study demonstrates that groundwater contamination will not occur and that groundwater flow patterns will not be disrupted. The hydrogeologic study will be conducted by a registered engineer demonstrating the impact on existing groundwater flow patterns. Unless otherwise determined by the Town, the determination of a landfill location will be based on Wisconsin Department of Natural Resource records of active, inactive and abandoned landfills located in the Town, as updated by the Department from time to time.

13.6 Reclamation Plan. The Town acknowledges that the County has an ordinance regulating the reclamation of non-metallic mining operations. Nothing contained herein is intended to interfere with or supersede the County’s ordinance. However, the Town is vested with the legislative discretion over land uses, including post-mining activity land uses. Therefore, the

application shall designate and contain appropriate detailed provisions for one or a combination of the following four major land re-use alternatives based on site specific conditions and location:

- A) A natural site where special attention is given to the preservation and restoration of natural features.
- B) A recreational site that is well-suited for sports and other forms of recreation.
- C) A building site that is well-suited for building facilities to support community growth and development.
- D) An agricultural site that has soils that are comparable to pre-mining soils and/or neighboring fields and adequate drainage to support plant life.

In addition, the applicant shall comply with all material requirements of the Wisconsin Department of Natural Resources NR135 Reclamation Plan, the requirements of which are hereby incorporated as performance standards in the conditional use permit issued to the applicant.

13.7 Non-metallic Mining Operations of whatever nature are limited to the hours of 6 a.m. to 6 p.m., Monday through Friday, and 6 a.m. to 2 p.m. Saturday. No non-metallic mining activity may be conducted on Sundays or legal holidays. Maintenance is allowed outside the approved hours of operation. Except as set forth below, hours of operation in existing conditional use permits will not be altered under this ordinance. The above restrictions may be adjusted to address special circumstances or demonstrated problems, but only if the Town provides its written consent to the modification after notice and a hearing.

13.8 Blasting. The applicant must comply with all applicable state and federal limits on blasting, including vibration and air blast regulations. The Town may seek independent verification of compliance with the ground vibration and air blast limitations. The applicant will maintain a blasting log for each blast for not less than 5 years. Upon the written request of the Town, the applicant will promptly submit to the Town information regarding any particular blast. A resident call list will be established by the applicant for the purpose of notifying neighbors at home in the vicinity of the site of imminent blasting activity. Residents within 1,000 feet of the boundary of the licensed non-metallic mining operation shall receive advance notice of the blasting, provided the relevant neighbors have requested that the applicant provide prior notice. A pre-blast contact diary will be maintained by the applicant at the on-site office, including the date of blast, neighbors contacted or attempted to be contacted, and any pertinent remarks. The applicant will promptly submit a copy of such diary entries to the Town upon written request. Notwithstanding anything to the contrary, flyrock traveling in the air or in the ground will remain in the controlled blasting site area. Additionally, such flyrock will not be cast from the blasting site. All blasting will be performed by or under the direct supervision of a State-licensed blaster. Blasting may occur only on Monday through Friday, exclusive of holidays, and only between the hours of 9 a.m. and 4 p.m.

13.9 Complaints. The applicant will maintain a log of all complaints received, whether received directly from residents or from the Town. The log will include at least the time and date of the complaint, the name and address of the complainant, a summary of the complaint, and a

summary of what, if any, action was taken regarding the complaint. Any written complaints received within 10 days of the activity addressed in the complaint shall be forwarded on to the Town or operator within 10 business days of the complaint. (Oral complainants should be told that their complaints must be reduced to writing.)

13.10 Dust Controls. Applicant will comply with all applicable state and federal air quality regulations. In addition, applicant will utilize industry best management practices in its efforts to control and minimize fugitive dust, including one or more of the following: landscaped earthen berms, paved entrance roadways, standard methods of water spray (weather permitting), dust covers on transfer points, and contract sweeping, as needed.

13.11 Noise Controls. Applicant will comply with all applicable noise regulations. In the event of any noise problems, the applicant will utilize the latest cost-effective technology proven and demonstrated in the applicant's industry, which will not impose an unreasonable financial burden on the applicant's non-metallic mining operation, in its efforts to control and minimize noise impacts. In addition, the applicant is prohibited from "dumping" stone into tubs between the hours of 8 p.m. and 6 a.m. Finally, the applicant shall take affirmative steps to reduce noise from the operation between the hours of 8 p.m. and 6 a.m.

13.12 Groundwater Monitoring.

- A) Applicant shall send a certified letter, return receipt requested, to the owner of each residence located within 1,000 feet of the perimeter of the boundary of the property described in the Conditional Use permit, notifying the owner of the owner's right to have baseline testing performed on the owner's well. The applicant is responsible for testing of all wells, unless the relevant owner has indicated in writing its intentions to be excluded from the baseline testing. Subject to the consent of eligible owners, the applicant shall arrange for and pay the cost of well testing of all wells within 1,000 feet of the perimeter of the boundary of the property described in the Conditional Use permit, of the non-metallic mining site. If the eligible owner is located within 1,000 feet of the applicant and another non-metallic mining operation, the applicant and the other non-metallic mining operation shall conduct a single, split well testing protocol and equally divide the testing expenses. Initial baseline testing shall be for bacteria, turbidity, and drawdown. Testing must be completed prior to the commencement of the operation, and at least annually for bacteria and turbidity thereafter. Drawdown test will be conducted every five years. Tests shall be performed by a qualified and certified independent professional. The result of the tests shall be provided to the Town within 10 business days of receipt by the applicant. If test results indicate any negative impact from the activities authorized by the conditional use permit, the applicant shall take all reasonable steps necessary to alleviate any problems including, but not limited to, immediately providing a temporary water source or well replacement. The applicant is also responsible, at the applicant's option, for either the total costs to re-drill or case any failed residential well existing and in use on the date of the issuance of the conditional use permit or of drilling and casing any required new well to replace an existing well, or for the incremental extra cost of such re-drilled or new replacement well attributable to the well being within the 1,000-foot perimeter of the boundary of the property described in the Conditional Use permit, plus the costs of determining the amount of such incremental extra cost, subject, however, to all of the

following conditions:

- 1) The failed well is an existing residential well in use as of the date of the granting of the conditional use permit.
 - 2) The existing property owner or the owner's predecessor-in-title permitted a well inspection by the applicant and promptly resolved all problems noted in the inspection in accordance with the requirements of applicable statutes, ordinances, rules, regulations and other laws.
 - 3) The well re-drilling or replacement is made in compliance with the requirements of all applicable statutes, ordinances, rules, regulations and other laws, including any necessary licensure of those performing such work.
 - 4) The qualifications of the well driller are mutually satisfactory to the property owner and the applicant, but with neither unreasonably withholding its approval.
- B) The determination as to whether any existing well has "failed" so as to require re-drilling or replacement will be made by a mutually-agreed well specialist in accordance with the requirements of all applicable statutes, ordinances, rules, regulations, orders and other laws. If the parties are unable to agree on a well specialist, each party shall appoint a well specialist and the two appointed well specialists shall thereafter select a well specialist who will then make the determination on whether the relevant existing well has "failed." The applicant shall be responsible for the costs of the selected well specialist.

13.13 Home Inspections. Applicant will send a certified letter, return receipt requested, to the owner of each residence within 1,000 feet perimeter of the boundary of the property described in the Conditional Use permit, notifying the owner of the owner's right to have a baseline inspection done of the owner's home to document any existing cracking or other conditions that might be alleged to have resulted from blasting. The applicant is responsible for inspections of all homes for which the owners have not provided written notice of their intentions to be excluded from the home inspection. The home inspections will be conducted by a qualified third-party consultant with substantial expertise and experience in conducting inspections relating to alleged blasting damage. The selection of the consultant will be by the applicant, subject to the Town's approval, which approval will not be unreasonably withheld. Within 30 days after the issuance of a conditional use permit, the applicant will notify each eligible homeowner in writing of the details of the home inspection program. Home inspections will be completed within 180 days after the applicant's acceptance of the conditional use permit. Applicant may, in its sole discretion, update any previously conducted home inspection at intervals of not less than 5 years. Within 60 days after the completion of each home inspection, a copy of the inspection report will be mailed or delivered to the Town and to the relevant homeowner.

13.14 Spill Prevention Control and Countermeasure Plan. The applicant will, prior to or simultaneously with acceptance of the conditional use permit file with the Town a spill prevention control and countermeasure plan to be placed into effect if an emergency occurs due to spillage of contaminants. The plan will include provisions for any equipment needed and actions required to contain and remove the spilled materials, and for the appropriate employee training. This plan will be placed on file at the on-site office and a copy shall be submitted to the Town.

13.15 Wetland Preservation. The staked wetlands on the non-metallic mining site will not be disturbed by the applicant's mineral extraction and related operations and activities; provided, however, that applicant reserves the right, with appropriate required permits or approvals from the Wisconsin DNR and the U.S. Army Corps of Engineers and Calumet County to modify and mitigate the wetland areas.

13.16 Well Restriction. An applicant may install a residential well for use in its non-metallic mining operation. High capacity wells and high capacity well systems, both as defined in Wisconsin Administrative Code NR 812.07, as amended, are prohibited without the Town's written approval.

13.17 Surface Water and Wastewater Collection and Sedimentation Control. Applicant will take all reasonable steps required to collect in the quarry site all surface water or wastewater run-off containing significant amounts of suspended solids from stripping and other non-metallic mining-related land disturbing activities and to settle and filter out such solids before discharge in compliance with applicable Wisconsin DNR WPDES permit requirements. Applicant will apply to the Town for appropriate erosion control permits for any earth-disturbing activities that do not drain into the quarry site.

13.18 Site Access and Improvements. Access to the non-metallic mining site shall be identified and agreed upon prior to the start-up of operations. Any road or intersection improvements deemed necessary to service the proposed operation (including acceleration and deceleration lanes) will be improved and maintained at the applicant's sole expense in accordance with the standards determined by the Town Board (in consultation with the County Highway Department) to allow for safe truck movements in and out of the site. The improvements will be made prior to the commencement of any hauling from the site, except for the hauling of material necessary to improve the intersection. The entrance road to the site must be paved. Haul roads will be maintained in a dust-free manner in accordance local, state and federal regulations. Restrictions on use of Town roads may be placed on the operation, subject to exceptions authorized by the Town Board for unusual circumstances. A detailed traffic study may be required by the Town. The study shall include, without limitation, the effect of trucking on traffic volume, patterns, safety and road capacity on all affected routes within one-half mile of the non-metallic mining operation. This does not apply to existing operations as of the date of the Ordinance.

13.19 Site Inspection and Compliance Committee. The Plan Commission Chairperson shall appoint a four-member inspection committee, consisting of three members of the Plan Commission together with a representative from a non-metallic mining regulatory agency such as East Central Wisconsin Regional Planning Commission or the Wisconsin Department of Natural Resources. The committee's responsibilities shall include, without limitation, the following:

- A) The inspection of each existing non-metallic mining operation on an annual basis in order to determine compliance with this Ordinance.
- B) The submission of a report of the committee's findings of its inspections with a statement describing the degree of compliance or non-compliance of the operations inspected by the committee. The report shall be submitted to the Chairperson of the Plan Commission with

a copy to the Town Clerk for distribution to the Town Board. The report shall also be sent to the operators within 10 days of the inspection. The committee shall provide the applicant with reasonable advance notice of an inspection and, further, shall comply with all reasonable safety policies applicable to non-applicant employees present at the site. However, the applicant shall take all reasonable steps to facilitate the committee's inspection of the site consistent with the purposes of this Ordinance; and

- C) The Town agrees to indemnify and hold harmless applicant, its directors, officers, employees, successors and assigns from and against any and all damages, claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) (together "Claims") arising out of or relating to or resulting in any way from any actual or alleged death of or injury to a member of the inspection committee that results, or is claimed to result, from the site inspection. The preceding indemnity does not apply to Claims arising out of the applicant's active negligence or willful misconduct.

13.20 Other Pertinent Information. Any conditional use permit issued to an applicant for a non-metallic mining operation shall contain provisions regarding the following additional requirements; provided, however, the following requirements must be met regardless whether the conditional use permit specifically mentions the following requirements:

- A) With respect to all new buildings, structures, signs, site improvements or other non-metallic mining extraction-related facilities to be constructed or installed on the site, the applicant will first obtain all necessary building, occupancy, land disturbing, operational and similar permits required by the Town, County, State and Federal government.
- B) A pre-operation inspection funded by the applicant of all relevant Town roads shall be conducted to establish a benchmark. Thereafter, annual inspections shall be conducted to determine the extent of damage, if any. The applicant is financially responsible for all proven road damage to Town roads as a result of the permit holder's operation.
- C) The conditional use permit will be granted for a period of three years, which term shall begin on the commencement of grading and earth movement activities on the site. In light of the fact that the anticipated life of the non-metallic mining operation is likely to substantially exceed 3 years, and because the applicant will be making a substantial investment in the development of the non-metallic mining site during the initial 3-year term, the conditional use permit will be renewed unless the applicant substantially fails to comply with the requirements of the conditional use permit. In the event of a zoning change that eliminates non-metallic mining and related operations and activities as a conditional use on the site, the zoning status of the applicant's operation will be that of a valid non-conforming use, the nature and extent of which will be defined by the conditional use permit.
- D) The applicant will provide to the Town an agreement to defend and hold the Town harmless against any third-party claims whatsoever resulting from or arising out of any negligent or intentional and wrongful act or omission of the applicant, its employees, officers or agents in conducting the operations of the non-metallic mining site that are regulated by the conditional use permit through the date of completion of final

reclamation. The hold harmless agreement shall be subject to approval as to form by the Town Attorney.

- E) Applicant shall submit a certificate of insurance identifying the Town and its elected officials, employees and agents as additional insureds with the following minimum coverage limits:
- 1) Comprehensive General Liability Insurance, including blanket contractual liability insurance, insuring the applicant's obligation to indemnify the Town as provided in this ordinance insuring the Town, its officials, officers, agents and employees against liability for personal injury, including death of persons resulting from injuries occurring on or in any way related to the use or occupancy of the permitted premises in a minimum amount of \$1 million per occurrence and against liability for damage to property occurring on or in or relating in any way due to the permitted premises with the combined aggregate of \$2 million.
 - 2) Comprehensive General Public Liability Insurance against claims for bodily injury, death or property damage, occurring on, in or about the permitted premises or arising out of the operation of the permitted premises. Such insurance shall afford protection of not less than \$1 million with respect to bodily injury or death to any one person with the combined aggregate of \$2 million with respect to any one accident, and not less than \$100,000 with respect to property damage, without deductibles.
- F) The applicant will be responsible to the Town for all reasonable actual costs incurred by the Town in the monitoring of the applicant's operations and in the administration of the conditional use permit and the review of any plans submitted for approval pursuant to or in connection with the conditional use permit. Such costs will be the actual salary and benefit costs incurred for the actual reasonable time spent by Town employees or officials on such monitoring, review or administration activities, and the actual reasonable costs to the Town of any independent contractors or consultants hired by the Town for such monitoring, review or administrative services. However, no unusual monitoring or review projects will be undertaken by the Town, at the applicant's cost, without good cause and without giving the applicant reasonable notice and opportunity to be heard regarding the need for any reasonableness of any such proposals. In addition to the above, the applicant is responsible to reimburse the Town for the Town's reasonable attorneys' fees and costs incurred in the review, administration or enforcement of the conditional use permit or the provisions of the Zoning Ordinance applicable to the non-metallic mining operation.
- G) Any conditional use permit issued to an applicant will be assignable only upon the written approval of the Town, which approval will not be unreasonably withheld or conditioned, subject to acceptance of such permit in writing by the proposed assignee or successor and satisfaction by the proposed assignee or successor of any reasonable financial security requirements imposed by the Town.
- H) No material provision of a conditional use permit may be modified except upon the written application by the applicant and after public notice and hearing. The Town makes no representations regarding the applicant's right to obtain whatever additional authorizations or permits may be necessary for the operation of non-metallic mining.

- I) The Town reserves the right to require such additional general and special conditions in the conditional use permit that the Town reasonably believes is necessary to protect the public health and welfare and to implement the legislative purposes of the Town's zoning ordinance. No waiver or inaction by the Town or its officials shall be deemed to be made unless the same shall be in writing and be signed by a duly authorized Town official. Each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the Town in any other respect at any other time.
- J) The issuance of a conditional use permit shall not be considered as in any manner affecting the title of the premises upon which the permitted activity will occur nor does it release the applicant from any liability for damage to person or property caused by or resulting from the non-metallic mining activity. In no manner does the Town assume any liability, directly or indirectly, for any loss due to damage, installation, maintenance or operation of the non-metallic mining activity authorized by the conditional use permit.
- K) All references in this ordinance referring to the "applicant" include, without limitation, the operator or owner (if other than the operator) of the relevant non-metallic mining operation.
- L) The provisions of this Ordinance shall apply to existing non-metallic mining operations, unless said operations are operating pursuant to the terms of a conditional use permit issued by the Town. Conditional use permits that are renewed by the Town subsequent to the adoption of this Ordinance shall comply with the provisions of this Ordinance, to the extent practicable.
- M) The Town reserves the right to require appropriate security to assure the timely performance of a specifically-required action expressly identified in the final permit.

Section 14.0 Regulation of Mobile Tower Siting.

Section 14.1. Purpose and Intent. The purpose of this section is to regulate by a conditional use 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.

Section 14.2. Definitions. All definitions contained in Wis. Stat. § 66.0404(1) are hereby incorporated by reference.

Section 14.3. Siting and Construction of Any New Mobile Service Support Structure and Facilities.

A) Application Process.

1) A conditional use 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:

- a) The name and business address of, and the contact individual for, the applicant.
 - b) The location of the proposed or affected support structure.
 - c) The location of the proposed mobile service facility.
 - d) 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.
 - e) 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.
 - f) 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) A permit application will be provided by the Town upon request to any applicant.
 - 4) 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.
 - 5) 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:
 - a) 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.
 - b) Make a final decision whether to approve or disapprove the application.
 - c) Notify the applicant, in writing, of its final decision.
 - d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 - 6) 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 sworn statement described under paragraph 15.3126.
 - 7) The fee for the permit is \$3,000.
 - b) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

Section 14.4. Class 1 Collocation.

- a) Application Process.

- 1) A conditional use permit is required for a class 1 collocation. A class 1 collocation 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:
 - a) The name and business address of, and the contact individual for, the applicant.
 - b) The location of the proposed or affected support structure.
 - c) The location of the proposed mobile service facility.
 - d) 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.
 - e) 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.
 - f) 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 class 1 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) A permit application will be provided by the Town upon request to any applicant.
- 4) 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.
- 5) 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:
 - a) 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.
 - b) Make a final decision whether to approve or disapprove the application.
 - c) Notify the applicant, in writing, of its final decision.
 - d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- 6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation with the applicant's search ring and provide the sworn statement describe under paragraph 15.4126.
- 7) 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 setback 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.

8) The fee for the permit is \$3,000.

a) Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

Section 14.5. Class 2 Collocation.

a) Application Process.

1) A conditional use permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the Town but still requires the issuance of the conditional use permit.

2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information.

a) The name and business address of, and the contact individual for, the applicant.

b) The location of the proposed or affected support structure.

c) The location of the proposed mobile service facility.

3) A permit application will be provided by the Town upon request to any applicant.

4) 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.

5) 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.

6) 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.

a) Make a final decision whether to approve or disapprove the application.

b) Notify the applicant, in writing, of its final decision.

c) If the application is approved, issue the applicant the relevant permit.

d) If the decision is to disapprove the application, include in the written notification substantial evidence which support the decision.

e) The fee for the permit is \$500.

b). Limitations. The Town may impose any conditions on its approval, except that it cannot include any condition prohibited by Wis. Stat. § 66.0404(4).

Section 15.0 Conditional Uses.

15.1 Authority. The Town Board, by a majority vote of the entire Board, may approve the issuance of a Conditional Use permit for uses listed as Conditional Uses in this ordinance.

15.2 Purpose. Conditional Uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. The Conditional Use permit is a flexible means of permitting certain exceptions to the districts

established and the rules and regulations adopted herein, in cases where the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.

15.3 Conditional Use Procedure. The following procedure shall be followed to obtain a Conditional Use permit:

- A) **Application.** An owner or owner's designated agent shall complete and file a Conditional Use application form with the Zoning Administrator accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. Ten copies of a scaleable development plan will be required with the written application.
- B) **Public hearing.** After receiving the request, the Zoning Administrator shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.
- C) **Action by Plan Commission.** The Plan Commission shall, within thirty (30) days of the public hearing, make a report and recommendation of approval or denial of the Conditional Use permit with any conditions it may deem appropriate to the Town Board. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering the Conditional Use application, as listed in 15.7.
- D) **Action by Town Board.** The Town Board shall, within thirty (30) days of Plan Commission action, act to approve or deny the Conditional Use permit by resolution. No Conditional Use Permit shall be issued unless the Town Board shall find that the conditional use is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare and that such building or use shall comply with all other regulations in the district in which it is proposed to be located.

15.4 Application Requirements. The applicant shall provide the following information on the Conditional Use application form, which is available from the Town Zoning Administrator:

- A) Applicant and property owner's name, address, and telephone number.
- B) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- C) Description of Conditional Use being requested.
- D) Written justification for the Conditional Use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for Conditional Uses listed in subsection 15.7.
- E) Filing fee

15.5 Development Plan Requirements. Submission of a Conditional Use permit request will need to include a development plan that has the following information:

- A) North arrows, date of preparation, and scale on 8½” x 11” size paper.
- B) Name(s) of all adjacent or surrounding streets and right-of-way width(s).
- C) Recorded property lines and their dimensions.
- D) All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
- E) Dimensions of existing and proposed yard setbacks for buildings and structures.
- F) Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways.
- G) The location of proposed and existing signage.
- H) The location, height and materials of all proposed and existing fences or retaining walls.
- I) Preliminary storm water and erosion control plan.
- J) Other additional information that may be deemed appropriate by the Zoning Administrator.

15.6 Conditions, Guarantees and Validity Period. The following conditions, guarantees and validity period may be imposed upon the granting of a Conditional Use permit:

- A) Prior to the granting of any Conditional Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, lot dimensions, construction, maintenance and method or hours of operation as deemed necessary for the protection of the public interest and to secure compliance with the standards specified in 15-7. In all cases in which Conditional Uses are subject to conditions, the Plan Commission may recommend and the Town Board may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).
- B) Conditional Use permits shall be issued permanently or for a specified period of time as may be specified by the Town Board upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.
- C) A Conditional Use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the Special Use has not been established within twelve (12) months of the issuance of the Conditional Use permit, the Conditional Use permit expires.

- D) Any party who has been issued a Conditional Use Permit by the Town shall notify the Town, in writing, that they are seeking a continuance or extension of any Special Use Permit that has an expiration date as established by Town Board. Such notification shall be submitted to the Zoning Administer thirty (30) days prior to the Conditional Use Permit expiration date.
- E) A Conditional Use permit shall become effective upon approval by the Town Board, unless a later effective date is established by the Board. A record of the Conditional Use permit shall be maintained in the Town Hall.
- F) A Conditional Use permit may be revoked by the Town Board for failure to comply with all provisions of such permit, provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

15.7 Standards. No application for a conditional use shall be recommended by the Plan Commission and granted by the Town Board unless the following conditions are present:

- A) That the establishment, maintenance or operation of the Conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- B) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the uses of adjacent land.
- C) That the establishment of the Conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- E) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F) That the conditional use shall conform to all applicable regulations of the district in which it is located.
- G) That the proposed use does not violate floodplain or shoreland regulations governing the site. (Refer to County Zoning)
- H) That adequate measures have been or will be taken to prevent or control water pollution, including sedimentation, erosion and runoff. (Refer to County Zoning)
- I) That the proposed use is reasonably necessary for the public convenience at that location.
- J) That in the case of an existing non-conforming use, the proposed use will make the existing non-conforming use more compatible with its surroundings.

15.8 Optional Standards for Granting Conditional Use Permits. The Plan Commission and Town Board may require the following additional standards when approving a Conditional Use permit:

- A) Increased setbacks and yard.
- B) Specifications for water supply, liquid waste, and solid waste disposal facilities.
- C) Sureties, operational controls, erosion prevention measures.
- D) Location of the use.
- E) Other requirements found necessary to fulfill the purpose and intent of this ordinance.
- F) A performance bond may be required to insure compliance with such requirements.
- G) Violation of these conditions shall constitute a violation of this ordinance.

Section 16.0 Left Blank for Future Use.

Section 17.0 Plan Commission.

17.1 Plan Commission. The Plan Commission has the responsibility for recommending land use changes consistent with the regulations in this ordinance and correctly interpreting the goals, objectives and intent of the Town of Brothertown Comprehensive Plan.

17.2 Membership and Terms of Office. The Plan Commission consists of seven (7) members consisting of Town elected or appointed officials, except that at least five (5) must be citizen members who are not otherwise Town officials. The Town Board Chairperson shall appoint the members of the Plan Commission and designate a Plan Commission Chairperson during the month of April to fill any expiring term (All appointments are subject to the approval of the Town Board.) In a year in which any Town Board member is elected at the spring election, any appointment or designation by the Town Chairperson shall be made after the election of the Town Board. Any citizen appointed to the Plan Commission shall take and file the oath of office within five (5) days of notice of appointment, as provided under Secs. 19.01 and 60.31, WI Stats. The Plan Commission Secretary shall be designated by the Plan Commission.

17.3 Term of Office. The term of office for the Plan Commission Chairperson and each Commission member shall be for a period of three years, ending on April 30th, or until a successor is appointed.

17.4 General and Miscellaneous Powers. The Plan Commission shall:

- A) Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning

Ordinance of the Town of Brothertown and function and duty as set forth herein; The Plan Commission's function and duty herein established shall not be changed or waived without the affirmative vote of the Town Board.

- B) Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this Zoning Ordinance.
- C) Prepare and recommend to the Town Board for adoption of a Comprehensive Plan for the Town, and from time to time to recommend amendments as it may deem appropriate.
- D) Be enabled to promote Town planning.
- E) Hear, review and offer its recommendations to the Town Board on applications for Conditional Use permits, subdivisions, street vacations and name changes, and other matters.
- F) Make reports and recommendations (per sec. 62.23(4)) relating to the plan and development of the town to the Town Board other public bodies, citizens, public utilities and organizations.
- G) Recommend to the Town Board programs for public improvements and the financing of such improvements.
- H) Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.
- I) For itself, its members and employees, in the performance of their duties, enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon. Entry shall not be made upon private land, except to the extent that the private land is held open to the general public, without the permission of the landowner or tenant. If such permission has been refused, entry shall be made under the authority of an inspection warrant issued for cause under sec. 66.0119, Wis. Stats., or other court-issued warrant.

17.5 Town Comprehensive Planning Authority and Requirements.

- A) The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Brothertown Comprehensive Plan. On July 21, 2008, the Town Board adopted said Plan, along with accompanying maps, tables and descriptive and explanatory matter, which includes the nine (9) elements specified under the comprehensive planning law, sec. 66.1001 (2), Wis. Stats.
- B) The Plan Commission will be responsible for reviewing and updating the Comprehensive Plan on a periodic basis to maintain relevancy to land use issues that may occur over time.
- C) The Plan Commission will determine if every petitioned land use change applied for through the provisions of this ordinance is consistent with the adopted Comprehensive Plan.

Section 18.0 Zoning Board of Appeals.

18.1 Establishment. There is hereby established a Board of Appeals for the Town of Brothertown. The Board of Appeals shall consist of five (5) members appointed by the Town Chairman and confirmed by the Town Board.

- A) **Terms:** Terms shall be for three (3) years, except that of those first appointed; one (1) shall serve one (1) year, two (2) shall serve two (2) years and two (2) for three (3) years.
- B) **Chairman:** Chairman shall be designated by the Town Chairman.
- C) **Alternate:** Two (2) alternate members shall be appointed by the Town Chairman for a term of three (3) years. The Town Chairman shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
- D) **Secretary:** Secretary shall be as designated by the Board of Appeals.
- E) **Vacancies:** Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

18.2 Organization. The Board of Appeals shall organize and adopt rules of procedure in conformance to Section 62.23(7)(e) 1-15 of Wisconsin Statutes.

18.3 Rules.

- A) The Board of Appeals shall meet at the call of the chairperson and at such other times as the Board of Appeals may determine, at a fixed time and place.
- B) All meetings of the Board of Appeals shall be open to the public.
- C) Any public hearings which the Board of Appeals is required to hold shall be held in the Brothertown Town Hall or other place convenient to the location or locations to be considered at such public hearing, and a full description of the location of such place of hearing by name, address or other commonly known means of identification, shall be included in the notice given of such hearing. Other matters upon which the Board of Appeals is required to act may also be heard to any such hearing provided that no undue hardship is created for any appellant by reason of the location of such hearing, and provided further that such matters are included in the notice given of such hearing.
- D) The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Secretary of the Board of Appeals and shall be a public record.

The Board of Appeals may adopt such other rules as are necessary to carry into effect the regulations of the Town Board. In the case of all appeals, the Board of Appeals may call upon the Town Board or Zoning Administrator for all information pertinent to the decision appealed from.

18.4 Powers. The Board of Appeals shall have the following powers:

- A) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by administrative official in the enforcement of this Ordinance.
- B) To authorize upon appeal in specific cases, a variance from the standards of the Ordinance as will not be contrary to the public interest. Variations for uses shall not be granted by the Board. A variance for the purpose for the purpose of this ordinance shall not be granted unless:
 - 1) A written application for a variance is submitted demonstrating the following:
 - a) That special condition exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
 - b) That literal enforcement or the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this ordinance.
 - c) That the special conditions and circumstances do not result from the actions of the applicant.
 - 2) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district.
 - a) No non-conforming use of neighboring lands or structures in the same district, and no permitted use of land or structures in other districts shall be considered grounds for the issuance of a variance.
 - b) The application is in proper form and fee as specified in 18.5 D) has been paid. The Board shall hold a public hearing on such matter in accordance with the provisions with the provisions of Section 18.6 of this ordinance. Reasonable special conditions and safeguards for the protection of the public health, safety, and welfare may be imposed by the Board if it grants the application for variance,
- C) The Board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the Ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
- D) Assistance - the Board may request assistance from other town or county officers, departments, commissions and boards.
- E) Oaths - the chairperson may administer oaths and compel the attendance of witnesses.

18.5 Appeals and Applications. Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by an officer, department, board or bureau of the Town. Such appeals shall be filed with the secretary and the officer from whom the appeal is taken within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator or the Town Board. Applications may be made by the owner or lessee of the structure, land or water to be effected at any time and shall be filed with the Zoning Administrator. Such appeals and applications shall include the following:

- A) Names and Addresses of the appellant or applicant and all abutting and opposite property owners of record.
- B) Sketch showing all the information required for a Land Use Permit.
- C) Additional Information which was required for the decision appealed from or may be required by the Board of appeals.
- D) Non- Refundable Fee in the amount as set by resolution of the Town Board to be paid to the Town at the time of application.

18.6 Hearings. The Board of Appeals shall fix a reasonable place for the hearing and hold a hearing within 45 days or less, give a Class One (1) notice thereof as provided in Chapter 985 of the Wisconsin Statutes, and give due notice to the parties in interest, the Zoning Administrator and the Town Board. At the hearing the applicant or the appellant may appear in person, by agent, or by attorney.

18.7 Decisions. The Board of Appeals shall decide all appeals, special exceptions, variances, and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Town Board. Conditions may be placed upon any Land Use Permit ordered or authorized by this Board. The concurring vote of a quorum of members of the Board present shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance. The grounds of every such determination shall be stated.

18.8 Review by Court of Record. Any person or persons aggrieved by any decision of the Board of Appeals may commence an action seeking the remedy available by certiorari. Such action shall be commenced within thirty (30) days after the filing of the decision in the office of the Board of Appeals.

Section 19.0 Duties of Zoning Administrator.

The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, after on-site inspection, all permits required by this Ordinance.

19.1 The Zoning Administrator shall further:

- A) Maintain Records of all permits issued, inspections made, work approved, and other official actions.
- B) Inspect all structures, lands, and waters to assure compliance with this Ordinance.
- C) Investigate all complaints made relating to violations of this ordinance and the use of structures, lands, and waters; give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Town Attorney with permission of the Town Board in a manner specified by them.
- D) Assist the Town Attorney in the prosecution of Ordinance violations.
- E) Access to premises and structures shall be permitted during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Ordinance. If, however, he/she is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes.
- F) Prohibit the use or erection of any structure, land or water until the Zoning Administrator has inspected and approved such use or erection.
- G) Attend as requested by the Town Plan Commission at a determined fee, meetings of the Town Plan Commission and the Town Board of Appeals.
- H) At the request of the Town Board, Town Board Chair, Plan Commission or Board of Appeals, present to such persons or bodies facts, records or reports that may assist them in making decisions, or assist them in any way as requested.

19.2 Zoning Permit Required. No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a zoning permit from the Zoning Administrator, unless otherwise exempted pursuant to Section 19.3 of this Ordinance.

- A) Applications for a zoning permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:
 - 1) Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

- 2) Description of the Subject Site by lot, block and recorded subdivision address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- 3) Location Sketch drawn as close as possible to scale showing the location, boundaries, dimensions, elevations, or where deemed appropriate by the Zoning Administrator.
- 4) Plat of Survey prepared by a registered land surveyor. The sketch or plat shall show uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.
- 5) A photocopy of Any Necessary Zoning Permits secured from the Calumet County Resource Management Department.
- 6) A Photocopy of any Necessary Sanitary Permits secured from the Calumet County Resource Management Department.
- 7) Additional Information as may be required by the Town Board, Plan Commission, or the Town Zoning Administrator or Building Inspector.

B) A Land Use Permit shall be granted or denied in writing by the Zoning Administrator within 9 working days after all the required information is provided. If denied, the reasons for such denial shall clearly appear upon the face of the notification of denial. Permits shall expire twelve (12) months after issuance unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. Building construction shall be in a location in accordance with the sketched and staked area and inspection by the Zoning Administrator, otherwise the permit shall be null and void.

C) Fees in the amount set from time to time by resolution of the Town Board for each permit.

19.3 Uses Not Requiring a Zoning Permit. No Zoning Permit shall be required for any of the following cases:

- A) For Building an Accessory Building less than 200 square feet in area.
- B) For Any Improvement or alteration to an existing building less than 200 square feet in area which does not effect a change in use, setbacks or lot coverage.
- C) For Repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.
- D) Portable Structure.
- E) However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.

19.4 Conditional Use Permit Required -follow 15.0 of this code.

19.5 Other Permits. It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal agency or Calumet County- follow 2.6 of this code.

19.6 Use Restrictions. The following use restrictions and regulations shall apply:

- A) **Principal Uses.** Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in the district.
- B) **Accessory Uses.** Accessory uses and structures are permitted in any district.
- C) **Conditional Uses.** Conditional Uses and their accessory uses are those which require review, public hearing, and approval by the Town Board in accordance with Section 15.0 of this code. The only conditional uses and structures permitted by this Ordinance shall be those enumerated in the Schedule of District Regulations.
- D) **Temporary Uses.** Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator.

19.7 Violations. In the event any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this ordinance, the Town Board, the Town Building Inspector, in addition to any other remedies provided by law, institute appropriate action or proceedings to prevent, restrain, enjoin, correct, or abate such violations, to prevent the occupancy of buildings or structures, or to prevent any illegal act, conduct, business, or use in or about such premises.

19.8 Penalties. Any person who violates any provisions of this ordinance or any other order, rule, or regulation made hereunder shall, upon conviction, be subject to forfeitures of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, together with the costs of prosecution and attorneys' fees, and in default of payment of such amounts, shall be imprisoned in the county jail until such forfeitures are paid, but not to exceed thirty (30) days. Each day that a violation continues shall be considered a separate offense. In addition to the foregoing, the Town may seek injunctive relief and abatement orders in the event of a violation of this ordinance.

Section 20.0 Left Blank Intentionally.

Section 21.0 Fees.

21.1 Land Use Permit. A fee in an amount determined by the Town Board by resolution is required to be paid by the applicant for a zoning permit. The fee shall be paid to the Town Zoning Administrator upon application.

21.2 Plan Commission. A fee in an amount to be determined by the Town Board by resolution is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town Treasurer and receipt filed with the amendment petition. This provision shall not apply to amendments initiated by the Town Board.

21.3 Fee for Board of Appeals. A fee in an amount determined by the Town Board by resolution is required to be paid by the applicant for each application or appeal to the Board of Appeals, which fee shall be paid to the Town Treasurer and receipt therefore filed with the application. This fee shall not be required of any township officers acting in his/her official capacity.

Section 22.0 Left Blank Intentionally.

Section 23.0 Changes and Amendments.

23.1 Power of Amendment. The Town Board may, from time to time on its own motion or on petition, amend, supplement or change this ordinance, including the Official Zoning Map.

23.2 Process for Application by Property Owner or Option Holder.

- A) An owner or owner's designated agent wishing to rezone his or her property shall meet or contact the Town Chairperson or designated Zoning Administrator to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the Town Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Town Board by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:
- 1) Applicant and property owner's name, address and telephone (cell) number.
 - 2) Parcel information, including parcel number, legal description, street address, if any, dimensions and existing zoning, land use, and Land Use Plan designation.
 - 3) Present zoning district and use of the property.
 - 4) Proposed zoning district and description of proposed land use and/or structures.
 - 5) Justification for rezoning.
 - 6) Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.
- B) **Notification to Adjoining Property Owners and Municipalities** As a matter of practice, an earnest effort will be made to send, by regular mail, a copy of the notice for public hearing to the applicant or petitioner or their agent, and to the property owners (as recorded in the Calumet County Register of Deeds Office) of all lands located within 500 feet of any part of the parcel or parcels included in a zoning amendment petition, Conditional Use permit application, variance petition, or appeal. The failure to mail a notice to the above parties or the failure of such notice to reach any of the above parties does not invalidate any public hearing or any decision of the Plan Commission and/or Town Board or Board of Appeals.

23.3 Public Hearing and Notice.

- A) **Required Hearing** No amendment of this ordinance shall become effective until it is forwarded to the Plan Commission for review and recommendation. Once the Plan Commission forwards their recommendation to the Town Board, a public hearing is scheduled to allow parties in interest and citizens to be heard. If the Plan Commission does not provide a recommendation within 60 days, the Town Board may proceed to hold a public hearing without the recommendation.
- B) **Notice of Hearing** A Class 2 notice in accordance with Chapter 985 of the Wisconsin

Statutes shall be published in the Town of Brothertown’s official newspaper once during each of the two weeks prior to the Town Board hearing.

- C) Notification to Adjoining Municipality At least 10 days before the public hearing, a written notice of such hearing shall also be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

Section 24.0 Effective Date and Repeal of Previous Zoning Ordinance.

24.1 This ordinance shall be in force from and after its passage, approval, publication and recording according to law.

24.2 The Previous Zoning Ordinance, originally dated 5-22-2013 is hereby repealed on the date on which this ordinance becomes effective

TOWN OF BROTHERTOWN

Charles Schneider, Town Chairperson

LeAnne Karls Town Clerk
Passed and Adopted: 3-27-2017

Prepared by Paul Birschbach. (Members)
Birschbach Inspection Service INC.
Note: April 1986 Zoning Code updated with 5-22-2013 Zoning Code.
5-22-2013 Zoning Code updated with 3-27-2017 Zoning Code.
3-27-2017 Change S.F.20 Calumet County Shoreland Zoning Change.
Passed by Calumet Co. Board April 12 2017 Resolution 2017-03