

TOWN OF EDEN ZONING ORDINANCE

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**TOWN OF EDEN
FOND DU LAC COUNTY, WISCONSIN
ZONING ORDINANCE**

An Ordinance under the provisions of Section 62.23 (7) 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 trade, industry, residence and other purposes; and for the said purpose to divide the Town of Eden, Fond du Lac County, Wisconsin, into districts of such number, shape, and areas as are deemed best suited to carry out the said purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.

The Town Board of the Town of Eden, Fond du Lac County Wisconsin, having been granted village powers pursuant to Section 60.10 does ordain as follows:

ARTICLE I

Section 1.0 Interpretation and Purposes

- 1.1** The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town of Eden, Fond du Lac County, Wisconsin.
- 1.2** It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties, or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where 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.

ARTICLE II

Section 2.0 Districts

2.1 District Names

For the purposes of this ordinance, the Town of Eden, Fond du Lac County, Wisconsin is hereby divided into 5 districts as follows:

1. R Residential District
2. A-1 Exclusive Agricultural District
3. A-T Transition District
4. B Business District
5. I Industrial District

2.2 Boundaries

The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map for the Town of Eden, Fond du Lac County, Wisconsin," which map is made a part of this ordinance and is on file in the office of the Clerk of said township. All notations and references shown on the District Map are as much a part of this ordinance as though specifically described herein.

1. The district boundaries, unless otherwise indicated, are street or highway center lines, 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.
2. The district boundaries, where not otherwise designated, shall be determined by the use of the scale shown on the district map.

ARTICLE III

Section 3.0 Glossary of Terms

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

- a. words used in the present tense include the future;
- b. the singular number includes the plural number and the plural number includes the singular number;
- c. the word "building" includes the word "structure"; the word "shall" is mandatory and not directory.

3.2 Definitions

Definitions of terms throughout this ordinance shall be interpreted to have the following meanings (An asterisk* designates the livestock facilities regulation definitions):

Adult-oriented establishment - shall have the meaning given in the Town of Eden Adult Oriented Establishments Ordinance.

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

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
10. Any other use that DATCP, by rule, identifies as an agricultural use.

Airport, Private - An airport which is privately owned and which is not open or intended to be open to the public

Alley - A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

*Animal unit - has the meaning that was given in s. NR 243.03(3) as of April 27, 2004. Table 1, shown on this page contains equivalents for use in calculations associated with this ordinance. The current NR 243 rules should be consulted for any changes to these equivalents.

TABLE 1
Animal Unit Equivalent Factors (# animals X factor = A.U.)

Dairy Cattle	Milking and Dry Cows	1.4
	Heifers (800 lbs. to 1200 lbs.)	1.1
	Heifers (400 lbs. to 800 lbs.)	0.6
	Calves (up to 400 lbs.)	0.2
Beef	Steers or Cows (600 lbs. to market)	1.0
	Calves (under 600 lbs.)	0.5
	Bulls (each)	1.4
Swine	Pigs (55 lbs. to market)	0.4
	Pigs (up to 55 lbs.)	0.1
	Sows (each)	0.4
	Boars (each)	0.5
Poultry	Layers (each)	0.01
	Broilers (each)	0.005
	Broilers – continuous overflow watering	0.01
	Layers or Broilers - liquid manure system	0.033
	Ducks – wet lot (each)	0.2
	Ducks - dry lot (each)	0.01
	Turkeys (each)	0.018
Sheep (each)		0.1
Goats (each)		0.1

Automobile Wrecking Yard - Any premises on which one or more automotive vehicles, either unlicensed or not in operating condition, is stored in the open. Automobile wrecking yards shall be limited to Industrial Districts.

Base Farm Tract

1. All land, whether one parcel or 2 or more contiguous parcels, that is in a Exclusive Agricultural District and that is part of a single farm as of March 8, 2011, regardless of any subsequent changes in the size of the farm.
2. Any other tract that DATCP by rule defines as a base farm tract

Boarding House - A building other than a hotel where meals, or lodging and meals, are furnished for compensation for 5 or more persons not members of a family.

Boathouse - Any structure designed for the purpose of protecting or storing boats for noncommercial purposes. Boathouses shall not be used for human habitation.

Building - Any structure used, designed or intended for the protection, shelter, enclosure, or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part 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 average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

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

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

Channel - A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus 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.

*Complete Application for Local Approval - means an application that contains everything required under ss. ATCP 51.30(1) to (4).

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.

DATCP - An abbreviation for the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Dwelling Unit - A room or rooms connected together, constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.

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

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

Dwelling, Multiple - A building or portion thereof designed for and occupied by more than two families including tenement houses, row houses, apartment houses and apartment hotels.

*Expanded livestock facility - means the entire livestock facility that is created by the expansion, after May 1, 2006. "Expanded livestock facility" includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

*Expansion - means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.

Family - is defined as any of the following:

1. an individual
2. two or more persons related by blood, marriage, or adoption
3. maximum of 5 persons not so related; together with his or their domestic servants and gratuitous guests maintaining a common household in a dwelling unit or lodging unit

Farm – means a parcel of land, or a collection of 2 or more contiguous parcels of land, which meets all of the following conditions:

1. All of the land is under common ownership.
2. More than half of the entire land area is assigned for property tax purposes to one or more of the following use classification as defined by the Wisconsin Department of Revenue pursuant to s. 70.32(2), Wis. Stats:
 - a. Agricultural land (class 4)
 - b. Agricultural forest (class 5m)
 - c. Productive forest (class 6)

Farm Acreage - means, for the purposes of ~~6.3~~ 6.4, acreage that is part of a farm, except that farm acreage does not include any nonfarm residential acreage.

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.

Farm residence - means any of the following structures that is located on a farm:

1. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 - a. An owner or operator of the farm.
 - b. A parent or child of an owner or operator of the farm.
 - c. An individual who earns more than 50 percent of his or her gross income from the farm.

Frontage - The narrowest portion of the lot fronting on a dedicated, accepted, or maintained street right-of-way.

Gross Income – The meaning given for Wisconsin adjusted gross income in 71.01(13).

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

Garage, Public - Any building or premises, other than a private, or a storage garage, where motor-driven vehicles are equipped, repair, 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.

Hobby Farm: A non-commercial farm operation with a limited number of animals and agricultural crop production, the income from which is incidental to the total household income.

Home Occupation - A gainful occupation conducted by members of the family only, within their place of residence, under the following restrictions:

1. the use of the dwelling unit for the home occupations shall be clearly incidental and subordinate to its use as a residence and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of such occupation;
2. there shall be no change in the outside appearance of the building other than one unlighted sign limited to 4 square feet in area;
3. no article shall be sold or offered for sale on the premises except such as is produced by such occupation;
4. no stock in trade shall be kept or sold and no mechanical equipment shall be used other than such as is permissible for purely domestic purposes;
5. no activity or process shall occur which would create noise, vibration, glare, fumes, odors, or electrical interference detectable outside the dwelling unit. "Home occupation" does not include "Professional Office" which is separately defined under Section 3.2.

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 Yard - A lot, land, building, or structure, or part thereof used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for sale of parts therefrom.

Livestock

1. For use in determining compliance with Wis. Stat. Chapter 91 04 Farmland Preservation, livestock means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
2. For use in determining compliance with ATCP 51 of Wis. Adm. Code, livestock means domestic animals traditionally used in Wisconsin in the production of food, fiber or other animal products. "Livestock" includes cattle, swine poultry, sheep and goats. "Livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

*Livestock facility - means a feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of

this chapter, except that an operator may elect to treat a separate species facility as a separate "livestock facility."

*Livestock structure- means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

Lodging House - A building other than a hotel where lodging only is provided for compensation for 3 or more persons not members of the family.

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 1 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.

Lot, Corner - A lot located

1. At the junction of and abutting 2 or more intersecting streets; or
2. At the junction of and abutting a street and the nearest shoreline or highwater line of a storm or floodwater runoff channel or basin; or
3. At the junction of and abutting 2 or more storm or flood water runoff channels or basins; or
4. At and abutting the point of abrupt change of a single street where the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

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 lines of the lot at the building line. In the case of a shoreland lot, the lot width is the width of the lot 75 feet from the waterline.

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 Secs. 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.

*Manure - means excreta from livestock kept at a livestock facility. "Manure" includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.

Mobile Home - A transportable factory built structure designed for long term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above. Mobile homes can be required to be located in a mobile home park. Manufactured homes cannot be required to be located in a mobile home park.

Modular Home - 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. Also called prefabricated or precut homes. A double-wide structure transported and assembled at the site on a permanent foundation shall be construed as a modular home. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable State and Local Building Codes. A modular home is subject to COMM 20.13, Wis. Adm. Code.

Motel - A building or group of buildings containing rooms which are offered for compensation for the temporary accommodations of transients.

*New livestock facility - means a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

Nonfarm residence - Means a one or two family residence other than a farm residence.

Nonfarm Residential Acreage - For purposes of section 6.4.2 the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Eden has approved nonfarm residences, all parcels that do not qualify as farms, and the parcel to which the Special Use permit application pertains.

Nonconforming Use - A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance or amendments thereto.

*Operator - means a person who applies for or holds a local approval for a livestock facility.

Person - means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

*Populate - means to add animal units for which a permit or other local approval is required.

*Property line - means a line that separates parcels of land owned by different persons.

Prime farmland - means any of the following:

1. An area with a class I or class II land capability classification as identified by the natural Resources Conservation Service of the Federal Department of Agriculture.
2. Land, other than land described in par. (A), that is identified as prime farmland in the Fond du Lac County Farmland Preservation Plan

Professional Office - The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, beauty parlor or barbershop or other recognized profession. When established in the Residential or Transition District, a professional office shall be incidental to the residential occupancy, not more than 25% of the floor area of only 1 story of a dwelling unit shall be occupied by such office, except that a beauty parlor shall be limited to 3 licensed operators working at any one time, and a barbershop to 2 licensed barbers operating in not to exceed 2 barber chairs at any one time; and provided further that a beauty parlor or barbershop shall not occupy over 500 square feet of floor area, including lavatories and waiting room; and only 1 unlighted name plate, not exceeding 4 square feet in area, containing the name and profession of the occupant of the premises shall be exhibited.

Protected farmland - means land that is any of the following:

1. Located in an Exclusive Agricultural District certified under ch. 91, Wis. Stats.
2. Covered by a Farmland Preservation Agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development as evidenced by documentation provided by the landowner who claims that the land is legally protected from nonagricultural development.

*Related livestock facilities - means livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

1. They are located on the same tax parcel or adjacent tax parcels of land.
NOTE: The mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.
2. They use one or more of the same livestock structures to collect or store manure.
3. At least a portion of their manure is applied to the same land spreading acreage.

Road - All property dedicated or intended for public or private road purposes must have a right-of-way width of 66 feet and a hard-surfaced paved area of at least 20 feet in width.

Road Line - A dividing line between a lot, tract or parcel of land and a contiguous road

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 50 square feet in ground area and there shall not be more than 1 roadside stand on any one premise.

Sanitary Sewer - A constructed conduit for the collection and carrying of liquid and solid sewage wastes from 2 or more premises, other than storm water, to a sewage treatment plant, and which is approved by the Wisconsin Department of Natural Resources.

*Separate species facility - means a livestock facility that meets all of the following criteria:

1. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a "related livestock facility"): Cattle, Swine, Poultry, Sheep, and Goats.
2. It has no more than 500 animal units.
3. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
4. It meets one of the following criteria:
 - a. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 - b. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

Setback - Lines established along highways at specified distances from the center line, which permitted buildings or structures shall be set back of, or outside of, and within which they may not be placed except as hereinafter provided. "Within the setback lines" means between the setback line and the highway.

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.

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

Single Family Residence - means a building that has one dwelling unit.

Special Use - A use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning district. Special Use as applied is synonymous with the term special exception.

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.

Structural Alteration - Any change in the bearing walls, columns, beams, girders, or

supporting members of a structure; and 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 1 location or position to another.

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.

Traffic Lane - A strip of roadway intended to accommodate a single line of moving vehicles.

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.

*Waste storage facility - means one or more waste storage structures. "Waste storage facility" includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

*Waste storage structure - means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, "waste storage structure" does not include any of the following:

1. A structure used to collect and store waste under a livestock housing facility;
2. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

Winter grazing area - means cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. "winter grazing area" does not include any of the following:

1. An area, other than a pasture, where livestock are kept during the period from May 1 to September 30.
2. An area which at any time has an average of more than 4 livestock animal units per acre.
3. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.
4. An area in which manure deposited by livestock causes nutrient levels to exceed standards in ATCP 51.16.

*WPDES permit - means a Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243.

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 Eden Zoning Ordinance and land development regulations, including the issuance of zoning permits.

Zoning District - An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

ARTICLE IV

Section 4.0 General Provisions

4.1 General Provisions, Except as Otherwise Provided

1. The use and height of buildings 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 such land or building is located.
2. 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 next existing buildings on each side of such building.
3. Where a housing project consisting of a group of 2 or more buildings containing 4 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this ordinance to the individual building units, the Board of Appeals may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole plat.
4. Every part of a required yard shall be open to the sky unobstructed, except the accessory buildings in a 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.
5. All dwellings, including mobile homes, shall (a) conform to minimum floor size requirements, (b) be securely anchored to a permanent footed foundation or slip, and (c) comply with all State of Wisconsin Building Codes.
6. No building, structure or use of land shall hereafter be initiated or altered except in conformity with the regulations specified for the district in which it is located. Uses not 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.
7. Notwithstanding anything to the contrary in this Ordinance, the Town reserves the right to require applicants for zoning amendments, variances, or Special Uses to reimburse the Town for reasonable professional fees incurred by the Town for the review or administration of the matter contained in 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 (including attorney's fees) incurred by the Town.
8. All churches or other places of public gathering hereafter erected shall provide an accessible parking space of sufficient size to accommodate at least 1 car for every 5 seats provided.
9. Any side yard, rear yard or court abutting a district boundary line shall have a

minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

4.2 Exceptions to Building Height, Yards, Open Spaces. The regulations contained herein relating to the heights of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

1. Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 65 feet nor 5 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
2. Chimneys, cooling towers, wind powered electrical generator towers, elevator bulkheads, fire towers, silos, monuments, penthouses, setbacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, micro-wave 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 Eden.
3. Residences in the Residential and Agricultural Districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1 foot for each foot by which such building exceeds the height limit of the district in which it is located.
4. Where a lot abuts on 2 or more streets or alleys 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.
5. Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
6. Accessory buildings which are not a part of the main building shall not occupy more than 30% of the area of the required rear yard and shall not be nearer than 5 feet to any lot line. Where an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard regulations applicable to the main building shall be applied to the accessory building.
7. Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet provided they be so located as not to obstruct light and ventilation.
8. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, 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.

9. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required for another building.

4.3 Public Road Access

Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot with a public road frontage of not less than 50 feet. The preceding sentence shall not apply to improvements constructed on a lot of record as of the date of the enactment of this amended ordinance provided said lot has a legally enforceable easement or similar legal right of access to a public road. 'Public Roads' shall be dedicated roadways as defined by Wisconsin Statutes. An alley or driveway shall not be considered a public road. In no case shall there be more than one main building on one lot.

4.4 Nonconforming Requirements

1. Nonconforming Uses

The existing lawful use of a building or premises as of the effective date of the originally adopted Zoning Ordinance (December 13, 1982), may be continued, although such use does not conform with the regulations for the district in which it is located, subject to the following restrictions:

- a. Such use shall not be enlarged or extended to more than 50 percent of the floor area.
- b. When such use of a structure is discontinued or abandoned for a period of 12 consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, the nonconforming use shall thereafter not be resumed and shall conform to this ordinance.
- c. Nonconforming mobile homes shall not be moved, relocated or placed unless in conformity with this ordinance.
- d. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

2. Nonconforming Structures

Where at the effective date of the originally adopted Zoning Ordinance being December 13, 1982, a structure exists which could not be erected in the district in which it is located by reason of restriction on height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

- a. Such structure shall not be altered in any manner which would increase the degree of nonconformity of structural conditions, height, or yard setback.
- b. Due to violent wind, vandalism, fire, flood, ice, snow, cold, or infestation, the

structure may be restored to the size and use that it had immediately before the damage or destruction occurred or to a larger size if necessary for the structure to comply with applicable state or federal requirements.

- c. 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.

3. Nonconforming Lots of Record

If a single lot or two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record on the effective date of the originally adopted Zoning Ordinance being December 13, 1982, the lands involved shall be considered to be an individual parcel for the purpose of this ordinance, and such parcel shall be allowed for developmental use even though it does not meet the lot area and lot width requirements for the district in which it is located.

3. Existing Special Uses

Any use or structure existing on the effective date of adoption of this ordinance which is classified as a special use in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the terms of this ordinance.

4.5 Wireless telecommunications towers and antennas.

Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section except in the Exclusive Agricultural District, where a Special Use is required in section 6.4.4.

1. Telecommunication towers and antennas shall not be regulated or permitted as essential services, public utilities or private utilities.
2. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the Town in regulating local zoning. The goals of this ordinance are to protect land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town shall give due consideration to the Zoning

Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

3. **Definitions.** As used in this ordinance, the following terms shall have the meanings set forth herein:

- a. **Alternative Tower Structure:** Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.
- b. **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- c. **Backhaul Network:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- d. **Co-location:** The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.
- e. **FAA:** Federal Aviation Administration.
- f. **FCC:** Federal Communications Commission.
- g. **Height:** When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.
- h. **Preexisting Towers/Antennas:** Any tower or antenna for which a building permit or Special Use permit has been properly issued prior to the effective date of this ordinance.
- i. **Tower:** Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self - supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

4. **Applicability**

- a. **New Towers and Antennas:** All new towers or antennas in the Town of Eden shall be subject to these regulations.
- b. **Amateur Radio Station Operators/Receive Only Antennas:** This ordinance shall not govern any tower, or the installation of any antenna, that is

owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

- c. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section 3(f)1.
5. **Permit Required.** No tower or antenna shall be installed unless a permit is first obtained by the owner or his agent from the Building Inspector. The following shall be required as part of the application submittal:
- a. A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this ordinance;
 - b. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;
 - c. The separation distance from other towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Town, or within one mile of the border thereof, including specific information about the location, height, and design of each tower;
 - d. Landscape plan showing specific plant materials;
 - e. Method of fencing, including location, materials and finished color and, if applicable, vegetative screening;
 - f. Description of compliance with Section 5;
6. **General Requirements.** In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna:
- a. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- b. State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- c. Co-location. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.
- d. Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- e. Setbacks. A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.
- f. Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of the off- site use and/or designated area as specified herein. The minimum separation distance shall be 200 feet or 300% of the height of the tower, whichever is greater.
- g. Aesthetics. Towers shall maintain galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- h. Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
- i. Lighting. Towers shall not be artificially illuminated unless required by the

FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

- j. Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
- k. Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- l. Appurtenant Equipment and Buildings. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements. Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

7. Permitted Uses.

- a. Antennas or Towers On Existing Structures: An antenna or tower may be situated on the roof of a residential, commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
- b. Antennas On Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that (1) A tower which is modified or reconstructed to accommodate the Co-location of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole; (2) An existing tower may be modified or rebuilt to accommodate the Co-location of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower;

(3) After a tower is rebuilt to accommodate Co-location, only one tower may remain on the site; and (4) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Town.

- c. Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

8. **Special Uses.** The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed only by Special Use permit and only in non-residential zoning districts. An application for a Special Use permit shall be subject to the procedures and requirements of Sections 11.0 and 12.35. In addition, a Special Use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this ordinance.

9. **Removal of Abandoned Antennas and Towers.** An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

10. **Nonconforming Uses.**

- a. Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- b. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

11 **Wireless Telecommunications Towers and Antennas**

- a. Separation Between Towers. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less than 75 Ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole 75 Ft in Height or Greater	1500	1500	1500	750
Monopole Less Than 75 Ft in height	750	750	750	750

- b. Tower Height: The following criteria shall apply in determining the maximum height of a tower:
- (1) For a single user, up to 90 feet.
 - (2) For two users, up to 120 feet.
 - (3) For three or more users, up to 195 feet.
- c. (Availability of Suitable Existing Towers, Other Structures or Alternative Technology). No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the Town to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers

attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4.6 Manufactured Home Requirements

1. A manufactured home moved into the Town of Eden following the adoption date of this ordinance must meet the following requirements:
 - a. That the manufactured home is secured to a permanent enclosed foundation that meets all applicable state building codes or full basement, not having more than 12 inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.
 - b. Minimum structure width (i.e. short side) shall be at least twenty-four (24) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling.
 - c. The structure shall have a minimum of a 4/12 pitched roof on a minimum of seventy-five (75) percent of the structure.

4.7 Ordinance Incorporating State Livestock Facility Siting Regulations

The Town Board of the Town of Eden, deeming it necessary to promote the public health, safety and welfare, does ordain as follows:

1. Purpose, Authority, and Abrogation

- a. **Purpose.** The purpose of this Ordinance is to incorporate and apply the livestock facility siting law requirements found in Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code and to prohibit the siting of new livestock facilities (with an excess of 500 animal units) and the expansion of existing livestock facilities by more than 20% (and over 500 animal units) in any other zoning district other than the Exclusive Agricultural District within the Town of Eden.
- b. **Authority.** This Ordinance is adopted pursuant to the Town's zoning powers found in Wis. Stats. 60.62, 62.23(7) and 93.90, together with the administrative provisions set forth in ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of these statutes and administrative rules.
- c. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

2. Local Livestock Regulation

- a. **Incorporation of State Law.** Pursuant to the provisions of Wis. Stats. 93.90, the Town of Eden does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Eden's Zoning Ordinance hereby reflects the provisions of Wis. Stats. 93.90 and ATCP 61 of the Wisconsin Administrative code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance.
- b. **Additional Town Requirements** The Town Board hereby declares the following more stringent local standards are deemed necessary to protect the public health, safety, welfare or convenience and, to that end, adopts the following legislative findings of fact:
 1. Concentrated farm operations of greater than 500 animal units will result in a higher level of traffic moving raw materials into and finished products out of such large farm operations. More traffic generated by a large farm operation increases the likelihood of accidents and the endangerment of local residents and operators of trucks or farm equipment traveling on the same roadways within the Town of Eden (public safety).
 2. Bedrock within the Town of Eden generally consists of light grey dolomite with occasional horizontal fractures and occasional stylolites (part of the Niagara Escarpment). Because animal waste can rapidly infiltrate into the ground water table due to the fractured limestone (karst) underlying a shallow top-soil, the Town of Eden will not allow Agricultural Siting operations or the spreading of liquid manure in these known areas.
 3. Elsewhere in the Town of Eden, the Town will review, on a case by case basis, the merits of Agricultural Siting Operations or the spreading of liquid manure when such operations are within 75 feet of a shallow water table (0 to 30 inches) when adjacent to wetlands, streams, and ponds. Pollutants that reach these waters may contaminate the groundwater that is consumed by local residents that may have shallow wells (public health).
 4. The Town of Eden has 22 wind turbines. It has been found that underground electrical wiring associated with these wind turbines can act as a conduit for manure to more quickly reach the groundwater tables. In such situations, the Town will restrict the spreading of liquid manure within 50 feet of the location of the underground electrical wiring entry point.

3. **Definitions**

Specific definitions as listed in ATCP 51 are found in Section 3 of this ordinance.

4. **Livestock structure setbacks**

- a. Except as provided for waste storage structures, livestock structures must be located at least 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and at least 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.
- b. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

5. **Waste Storage Structure Setbacks**

- a. A new waste storage structure may not be located any closer than 350 feet from a property line, or any closer than 350 feet of the nearest point of any public road right-of-way. A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:
 - (1) Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.
 - (2) No larger than the existing structure.
 - (3) No further than 50 ft. from the existing structure.
 - (4) No closer to the road or property line than the existing structure.
- b. This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.

6. **Well Separation Distances**

- a. **Based on NR 811.16** Wells (4) Well sites (d), (d) a well shall be one-thousand (1,000) feet, from a manure stack, livestock structure, or storage structures, regardless of whether the livestock facility operator owns the land on which the well or wells are located. The only exception is if a hydrogeologic investigation indicates lesser separation distances would provide adequate protection of a well from contamination.
- c. **Section NR 812.08**, which covers well, reservoir and spring location, and sub-paragraph (4) which regulates the relation to contamination sources, states that minimum separating distances between any new potable or nonpotable well, reservoir or spring and existing sources of

contamination; or between new sources of contamination and existing potable or nonpotable wells, reservoirs or springs, shall maintain a minimum separating distance as follows: (this subsection does not apply to dewatering wells approved under s. NR 812.09 (4))

- (1) Greater separation distances may be required for wells requiring plan approval under s. NR 812.09. Separation distance requirements to possible sources of contamination will not be waived because of property lines. The following setbacks apply to livestock siting applications:
- (2) Twenty-five (25) feet between a well or reservoir and a:
 - (a) Buried gravity manure sewer;
 - (b) Liquid-tight barn gutter;
 - (c) Animal barn pen with concrete floor;
 - (d) Buried pressurized sewer pipe conveying manure provided that the pipe meets ASTM specification D-2241, with standard dimension ratio of 21 or less or pressure pipe meeting the requirements of s. NR 110.13 (6) (f) or 811.62
- (3) Fifty (50) feet between a well or reservoir and a Manure loading area.
- (4) One-hundred (100) feet between a well or reservoir and a:
 - (a) Liquid-tight, fabricated manure or silage storage structure, in ground or at ground surface;
 - (b) Dry fertilizer or pesticide storage building or area when
 - (c) more than 100 pounds of either or both materials are stored;
 - (d) Stormwater infiltration basin;
 - (e) Uncovered storage of silage on the ground surface;
 - (f) Water-tight silage storage trench or pit; or
 - (g) Lift station.
- (5) One hundred fifty (150) feet between a well or reservoir and a temporary manure stack.
- (6) Two hundred fifty (250) feet between a well or reservoir and a:
 - (a) Manure stack.
 - (b) Earthen or excavated manure storage structure.

Note: Variances from the separating distances may be granted as specified in s. NR 812.43 for earthen storage and manure stacks constructed and maintained to the specifications of Soil Conservation Standards No. 425 or 312, respectively.

7. Special Use Permit Required

- a. **General** A Special Use permit, issued by the Town of Eden, is required for new or expanded livestock facilities pursuant to Wis. Stat. § 93.90 and ATCP 51.
- b. **Special Use Permit for Existing Livestock Facilities** A Special Use permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - (1) The applicable size threshold for a Special Use permit.

- (2) The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on (May 1, 2006 or on the effective date of the Special Use permit requirement, whichever date is later)
- (3) A Special Use permit is not required for livestock facility that existed before May 1, 2006 or before the effective date of the Special Use permit requirement in this ordinance, except as provided in sub. 1.

A Special Use permit is not required for livestock facility that was previously issued a Special Use permit, Special Use permit or other local approval, except as provided in sub. 1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

8. Special Use Permit Application

A livestock operator must complete the application form and worksheets prescribed by ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance. The operator must file four duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

9. Special Use Permit Application Fee

A non-refundable application fee of \$1,000.00, payable to the Town of Eden, shall accompany an application for the purpose of offsetting the Town of Eden costs to review and process the application.

10. Application Procedure

- a. Pursuant to ATCP 51.30 (5), within 45 days after the Town of Eden receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town of Eden shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
- b. Pursuant to ATCP 51.30 (6), within 14 days after the Town of Eden notifies an applicant that the application is complete, the Town of Eden shall notify adjacent landowners of the application. The Town of Eden shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.
- c. Upon determination of completeness the Town of Eden clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a class 2

notice the last of which is at least a week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.

- d. Pursuant to ATCP 51.32, a Town of Eden shall grant or deny an application within 90 days after the Town of Eden gives notice that the application is complete under paragraph 2 above. The Town of Eden may extend this time limit for good cause, including any of the following:
 - (1) The Town of Eden needs additional information to act on the application.
 - (2) The applicant materially modifies the application or agrees to an extension.
- e. The Town of Eden shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town of Eden will act on the application.

11. Criteria for Issuance of a Special Use Permit

- a. A. Special Use permit shall be issued if the application for the proposed livestock facility:
 - (1) Complies with this ordinance, and
 - (2) Is complete, and
 - (3) Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this ordinance, specifically Article 6 above.
- b. A Special Use permit shall be denied if any of the following apply:
 - (1) The application, on its face, fails to meet the standard for approval in the previous paragraph,
 - (2) The Town of Eden finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in this ordinance.
 - (3) Other grounds authorized by s. 93.90, Stats., that warrant disapproving the proposed livestock facility.

12. Record of Decision

- a. The Town of Eden must issue its decision in writing. The decision must be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.
- b. If the Town of Eden approves the application, it must give the applicant a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

- c. The Town of Eden Clerk, as required by ATCP 51.36 within 30 days of the Town of Eden decision on the application, shall do all of the following:
 - (1) Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town of Eden decision.
 - (2) File with the Department a copy of the final application granted or denied, if the Town of Eden has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)

13. Transferability of Special Use Permit

- a. A Special Use permit and the privileges granted by a Special Use permit would run with the land approved under the Special Use permit and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.
- b. The Town of Eden requests that upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town of Eden clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

14. Expiration of Special Use Permit

- a. A Special Use permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under Special Use permit, and regardless of whether the livestock operator exercises the full authority granted by the approval.
- b. However, the Town of Eden may treat a Special Use permit as lapsed and withdraw the Special Use permit if the permit holder fails to do all of the following within 2 years after issuance of Special Use permit:
 - (1) Begin populating the new or expanded livestock facility.
 - (2) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the application for local approval.

15. Special Use Permit Terms and Modifications

A Special Use permit and the privileges granted by a Special Use permit issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a Special Use permit. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Eden shall not withhold authorization for those changes. A violation of the Special Use

permit or a failure to comply with the commitments made in the application may result in suspension and/or termination of the Special Use permit as provided in Article 13 of this ordinance

16. Compliance Monitoring

The Town of Eden shall monitor compliance with the ordinance as follows:

- a. Upon notice to the livestock facility owner request the right of the Town of Eden or its designee, to personally view the permitted premises at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
- b. If the livestock facility owner refuses the Town of Eden or its designee the right to view the permitted premises, the Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted premises for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
- c. If a permitted premises is found not to be in compliance with the commitments made in the approved application, the Town Board or its designee shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and Special Use permit be complied with in a reasonable amount of time stated in this written notice.
- d. If non-compliance of the Special Use permit conditions as described in the written notice given by the Town Board or its designee continue past the stated reasonable time to comply, the Town may take further action as provided in this ordinance, including but not limited to initiation of a forfeiture action in circuit court, withdrawal of special use permit approval, or seeking injunctive relief.
- e. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town of Eden shall schedule a hearing within five days to determine if the conditions of the Special Use permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

17. Penalties

- a. Any person who violates any of the provisions of this ordinance, or who fails, neglects or refuses to comply with the provisions of this ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

- b. Upon conviction by a court of law, pay a forfeiture of not less than \$500 nor more than \$1,000 plus the applicable surcharges, assessments, costs, and attorneys' fees for each violation.
- c. Each day a violation exists or continues shall be considered a separate offense under this ordinance.
- d. The Town of Eden may also seek injunctive relief and abatement orders from a court of record to enjoin or abate violations.
- e. The Town of Eden may suspend or revoke the local approval of a Special Use permit under this ordinance after due notice to the livestock facility owner and a public hearing to determine whether the Special Use permit should be suspended or revoked.
- f. In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the permitted premises by the Town of Eden may be collected under this ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

18. Appeals

- a. In addition to other appeal rights provided by law, Sec. 93.90 (5), Stats, provides that any "aggrieved person" may request review by the Livestock Facility Siting Review Board of any decision by the Town of Eden in connection with a permit application based on the following scenarios:
 - (1) An "aggrieved person" may challenge the decision on the grounds that the (Town of Eden) incorrectly applied the standards under this ordinance or violated sec. 93.30, Stats.
 - (2) An "aggrieved person" under this Article as defined in Sec. 93.90 (5) of Wis. Statutes means a person who applied to the Town of Eden for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
 - (3) An "aggrieved person" may request review of any decision of the Livestock Facility Siting Administrator decision or action by the Town of Eden. Any appeal brought under this Article must be requested with 30 days of the Town of Eden approval or disapproval or within 30 days after the decision on appeal before the Town of Eden.
- b. Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Statutes and administrative rules of said board.

19. Severability

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.

ARTICLE V

Section 5.0 R Residential District

5.1 Purpose

The Residential District is intended to provide areas of low-density residential development and ancillary uses.

5.2 Permitted Uses:

1. One-family dwellings, which includes a modular home
2. Two-family dwellings;
3. Public parks, playgrounds;
4. Conversion of any existing building to a permitted use;
5. General farming, but not including the keeping, raising or feeding of livestock (including horses) poultry, or fur farming.
6. Professional Office (as defined in 3.2)
7. Home occupations (as defined in 3.2)

5.3 Regulations and Standards: The following regulations and standards shall apply to all dwellings.

1. Occupancy: Residential occupancy per dwelling unit shall be limited to 1 family and not more than 2 roomers or boarders.
2. Location: Dwellings shall be located so as to abut a public highway and lots shall have a minimum of 50 feet of frontage thereon.
3. Habitable Floor Area: The minimum habitable floor area per dwelling unit shall be 900 square feet.
4. Off-Street Parking Space: (1) each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located in the same lot or tract of land as the dwelling served: (2) such off-street parking space shall total at least 300 square feet for each space required: (3) not more than 1 such space within a private garage or private carport shall be rented or leased to a non-resident of the premises: (4) location: no such space shall be located less than 10 feet from any front lot line and shall be located not less than 5 feet from any side or rear lot line.

5.4 Special Uses The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance (see Section 11.0 for regulations):

1. Multiple-Family Dwelling, subject to the following additional standards and regulations:
 - a. Ground Floor Area. Minimum ground floor area per dwelling unit shall be for each 1-bedroom unit, 700 square feet; for each 2-bedroom unit, 800 square feet; for each 3-bedroom unit, 1,000 square feet - exclusive of common use hallways.
 - b. Off-Street Parking Space. Off-street parking spaces of not less than 300 square feet for each space required shall be provided on the same lot or tract of land as the dwelling served, located not less than 10 feet from any front lot line and not less than 5 feet from any side or rear lot line: 1.5 spaces for each 1-bedroom unit; 1.5 spaces for each 2-bedroom unit and 2 spaces for each 3-bedroom unit and no such space shall be rented or leased to a non-resident of the premises. Parking areas shall be screened with decorative fence or shrubbery from the street and adjacent property and shall provide sufficient area so that vehicles may re-enter the public highway in a forward direction.
 - c. Dimension of Building Sites.
 - (1) Minimum area and width for a 3-family unit shall be a minimum of 60,000 square feet with a minimum lot width of 200 feet.
 - (2) For more than a 3-family unit, 60,000 square feet plus 20,000 square feet per family unit in excess of 3 with a minimum lot width of 250 feet.
 - (3) Side Yard. Sum of the required side yards shall be 15 feet per unit with a maximum of 40 feet; no single side yard shall be less than 40% of the required total. A two-unit building would require total side yard width of 30 feet, approximately 15 feet on each side.
 - (4) 40% of the required total. A two-unit building would require total side yard width of 30 feet, approximately 15 feet on each side.
 - d. Site Improvements
 - (1) Refuse disposal shall be in metal containers in the rear yard and appropriately screened and accessible for removal from a driveway or a yard serviced driveway.
 - (2) Such additional screening shrubbery and the like as shall be necessary and reasonable in order to retain the esthetic values of the area and to protect adjacent property.
 - (3) Such fencing as may be necessary for the safety of the occupants and the public generally.

2 Assisted Living units

5.5 Nonconforming Uses

See section 4.3, 4.4 and 4.5 regarding nonconforming regulations of this ordinance.

5.6 Dimensions of Building Sites:

1. Minimum Area and Width for one-Family Unit for lots not served by Public Sanitary Sewer:
 - a. The minimum lot area shall be 40,000 square feet and the minimum lot width 150 feet at the building line; on riparian lots, 75 feet at the water's edge.
 - b. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Section 1-162.20 and/or 1-165, Wisconsin Administrative Code or the Sanitary Ordinance of Fond du Lac County, then such larger lot sizes shall be considered as required by the Zoning Ordinance.
 - c. The Building Inspector shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance.

5.7 Height

Not to exceed 35 feet or 3 stories.

5.8 Side Yard

1. For buildings not over 1 1/2 stories in height, the sum of the width of the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet.
2. For buildings from 1 1/2 to 3 stories in height, the sum of the width of the required side yard shall not be less than 30 feet and no single side yard shall be less than 12 feet.

5.9 Rear Yard

Minimum depth of 25 feet. On riparian lots, rear yards shall comply with applicable county ordinances and state law.

5.10 Driveway Setback

The edge of all new driveways leading to a residence with an attached garage or a stand-alone garage or shed must be 10 feet from a neighboring property line.

ARTICLE VI

Section 6.0 A-1 Exclusive Agricultural District

6.1 Purposes

The purposes of the Exclusive Agricultural District are to:

1. Preserve productive agricultural land for food and fiber production
2. Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs
3. Maintain a viable agricultural base to support agricultural processing and service industries
4. Reduce costs of providing services to scattered nonfarm use
5. Pace and shape growth
6. Implement the provisions of the county agricultural plan as adopted and periodically revised
7. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under s. 71.613

6.2 Lands Included

This district is generally intended to include prime agricultural lands historically exhibiting high crop yields, which generally consist of Class I, II, and III soil capability classes established by the Soil Conservation Service, USDA. This district also includes other lands which are integral parts of productive farm operations.

6.2 Permitted Uses

The following are permitted uses unless regulated as special uses under 6.4.

1. Agricultural Uses (as defined in 3.2)
2. Livestock facilities with less than 500 animal units
3. Roadside stands for the sale of farm products produced on the farm that meets the accessory use provisions in paragraph 4 of this section.
4. Accessory uses means any of the following.
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:

- (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (5) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - (6) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm residence, including normal residential appurtenances.
 - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (1) It is conducted on the farm by the owner or operator of the farm
 - (2) It requires no buildings, structures, or improvements other than those described in par. (a) or (c)
 - (3) It employs no more than 4 full-time employees annually
 - (4) It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
3. Agriculture-Related Uses means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose :
- a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Exclusive Agricultural District.
 - b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Exclusive Agricultural District.
 - c. Marketing livestock to or from farms, including farms in the Exclusive Agricultural District.
4. Undeveloped natural resource and open space areas
5. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a license for that use
6. Other uses identified by DATCP rule.

7. Home Occupations, as defined in section 3.2, are permitted within the Exclusive Agricultural District provided they meet the requirements of 6.3.4.

6.4 Special Uses

The following uses may be allowed in this district if reviewed and approved in accordance with standards in Section 11.

1. **Livestock facilities** Livestock facilities equal to or more than 500 animal units, subject to Livestock Siting Application Process contained in Section 4.7 of this ordinance.
2. **Nonfarm Residences** A proposed new Nonfarm residence or a proposal to convert a farm residence to a nonfarm residence through a change in occupancy is a Special Use in the Exclusive Agricultural District provided all of the following apply:
 - a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1 to 20 after the residence is constructed or converted to a nonfarm residence.
 - b. There will not be more than 4 dwelling units in nonfarm residences, nor, for a new nonfarm residence, more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
 - c. The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
 - (1) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
 - (2) Significantly impair or limit the current or future agricultural use of other protected farmland.
3. **Nonfarm Residential Cluster.** The Town of Eden may issue a single Special Use permit authorizing 2 or more proposed nonfarm residences if all of the following apply:
 - a. The conditional use permit includes all of the following information:
 - (1) The total number of nonfarm residences authorized by the permit.
 - (2) A legal or survey description of each parcel on which a nonfarm residence is authorized.
 - (3) The number of nonfarm residences authorized on each parcel under subd. (2), if more than one.

- (4) The number of dwelling units authorized in each authorized nonfarm residence, if more than one-family residences.
 - b. Each of the parcels described under par. a.(2). shares a boundary with at least one other parcel described under par a.(2).
 - c. Each of the proposed nonfarm residences will meet all of the standards under sub. 2. when all of the proposed nonfarm residences have come into existence.
 - d. The conditional use permit prohibits all of the following:
 - (1) Any further division of any parcel described in par. a.(2).
 - (2) Any nonfarm residence or dwelling unit on a parcel identified in par. a.(2)., other than a nonfarm residence or dwelling unit identified in the permit.
4. **Transportation, communications, pipeline, electric transmission, utility, or drainage uses** if all the following apply:
- a. The use and its location are consistent with the purposes of the district.
 - b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
5. **Governmental, institutional, religious, or nonprofit community uses** if all of the following apply:
- a. The use and its location are consistent with the purposes of the Exclusive Agricultural District.
 - b. The use and its location are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

- d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
6. Slaughtering livestock, including livestock from farms in the Exclusive Agricultural District.
7. Processing agricultural by-products or wastes received directly from farms, including farms in the Exclusive Agricultural District
8. Non-Metallic Mining (see Section XI for regulations)

6.5 Non-conforming Uses

See section 4.4 regarding non-conforming regulations of this ordinance.

6.6 Minimum Lot Size:

The following conditions apply toward the minimum lot sizes for a farm or nonfarm residence:

1. For a farm, the owner must have at least 10 acres
2. By special use, the creation of a separate parcel for a new nonfarm residence or the conversion of a farm residence to a nonfarm residence must be at least one acre.

6.7 Dimensional Regulations for Farm or Residential Structures:

1. Highway setbacks for farm dwellings and structures shall be as specified in Section 10 of this ordinance.
2. Side yard requirements are as follows:
 - a. For residential or accessory buildings not over 1 1/2 stories in height, the sum of the width of the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet.
 - b. For residential or accessory buildings from 1 1/2 to 3 stories in height, the sum of the width of the required side yard shall not be less than 30 feet and no single side yard shall be less than 12 feet.
 - c. For barns and machine sheds, a minimum of 50 feet
3. Rear Yards: Minimum depth 25 feet. On riparian lots, rear yards shall comply with applicable county ordinances and state law.
4. Maximum height for residential structures shall be 35 feet or three stories

5. Barns, Silos, grain elevators, and antennas shall be exempt from the height regulations.
6. Minimum Lot Width: 150 feet at the setback line. In the case of an existing "flag-lot", the minimum width on a public right-of-way is 40 feet, and the minimum lot width past the "pole" of the "flag-lot" must be at least 150 feet wide.

6.8 Minimum Lot Size, Height and Yard Requirements for Special Exceptions Uses:

The minimum lot size, height, and yard requirements for special uses shall be as specified in the special use permit, but in no case shall be less than 50 feet from a lot line and shall be set back at least the distance specified in Section X of this ordinance.

6.9 Off-Street Parking Requirements

Two spaces for each residential dwelling unit

6.10 Driveway Setback

The edge of all new driveways leading to a residence with an attached garage or a stand-alone garage or shed must be 10 feet from a neighboring property line.

ARTICLE VII

7.0 Transition District

7.1 Purpose

To establish and preserve areas for agricultural, low density residential and outdoor recreation uses without permitting an intensity of development which would require the provision of urban facilities and services. A person or persons who want to create a new nonfarm residential parcel will need to rezone the land to the Residential classification.

7.2 Permitted Uses: The following are permitted uses unless regulated as special uses under 6.4.

1. Agricultural Uses (as defined in 3.2)
2. Professional office (as defined in 3.2)
3. Accessory uses means any of the following.
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This includes:
 - (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm,
 - (5) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm. Solar energy systems will be subject to the provisions of the Town of Eden Solar Energy Systems Ordinance.
 - (6) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - (7) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - b. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - c. A farm residence, including normal residential appurtenances.
 - d. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (1) It is conducted by the owner or operator of a farm

- (2) It requires no buildings, structures, or improvements other than those described in par. a. or c.
 - (3) It employs no more than 4 full-time employees annually
 - (4) It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - e. Roadside stands for the sale of farm products produced on the farm, further defined in this section and subject to the conditions of paragraph d. above.
3. Agriculture-Related Uses is a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
- a. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Exclusive Agricultural District.
 - b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Exclusive Agricultural District.
 - c. Marketing livestock to or from farms, including farms in the Exclusive Agricultural District.
4. Hobby farms
5. Farm Consolidation. which is any separation of farm residences or structures from the larger farm (by means of a certified survey map) provided such parcel meets all of the following requirements:
- a. The separation is for the purpose of farm consolidation;
 - b. The residence or structures existed prior to the adoption of the ordinance;
 - c. The separated parcel is no larger than reasonably necessary to accommodate the proposed use;
6. Home occupation, provided the definition of a home occupation in section 3.2 is met.

7.3 Special Uses

The following uses may be allowed in this district if reviewed and approved in accordance with standards in this ordinance:

- 1. Charitable institutions
- 2. Dog Kennels
- 3. Commercial Riding Stable boarding 3 or more horses

7.4 Non-conforming Uses

See section 4.3, 4.4 and 4.5 regarding non-conforming regulations of this ordinance.

7.5 Minimum Lot Size

The following conditions apply toward the minimum lot sizes for a farm or farm residence:

1. No minimum acreage for agricultural purposes, provided there is sufficient acreage to be able to earn \$6,000 annually on farmed land
2. If a farm residence is platted off from the farm but the occupants gain a majority of their income from the farm, the lot size shall be a minimum of one (1) acre.
3. An existing platted lot that was legally subdivided prior to the adoption of any Eden Zoning regulations (December 13, 1982) may be issued a permit for a one-family detached dwelling and its accessory structures.

7.6 Dimensional regulations for farm or residential structures:

1. Highway setbacks for farm dwellings and structures shall be as specified in Section 10 of this ordinance.
2. Side yard requirements are as follows:
 - a. For residential or accessory buildings not over 1 1/2 stories in height, the sum of the width of the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet.
 - b. For residential or accessory buildings from 1 1/2 to 3 stories in height, the sum of the width of the required side yard shall not be less than 30 feet and no single side yard shall be less than 12 feet.
 - c. For barns and machine sheds, a minimum of 50 feet
3. Rear Yards: Minimum depth 25 feet. On riparian lots, rear yards shall comply with applicable county ordinances and state law.
4. Maximum height for residential structures shall be 35 feet or three stories
5. Barns, Silos, grain elevators, and antennas shall be exempt from the height regulations.
6. Minimum Lot Width: 150 feet at the setback line. In the case of an existing "flag-lot", the minimum width on a public right-of-way is 40 feet, and the minimum lot width past the "pole" of the "flag-lot" must be at least 150 feet wide.

7.7 Off-Street Parking Requirements

Two spaces for each residential dwelling unit

7.8 Driveway Setback

The edge of all new driveways leading to a residence with an attached garage or a stand-alone garage or shed must be 10 feet from a neighboring property line.

ARTICLE VIII

Section 8.0 B Business District

8.1 Purpose

The Business District is intended to provide space for those retail, business, service business and office uses serving the town.

8.2 Permitted Uses

The following permitted uses shall be interpreted so as to exclude manufacturing, fabricating, assembly and processing functions or activities:

1. Any use permitted in Residential District.
2. Retail stores and shops.
3. Banks, post office, medical or dental clinics; business or professional offices.
4. Service-type businesses, such as barbershops, beauty parlors, Laundromats, music, dancing, art or photography studios, servicing or repair or home appliances or farm equipment and similar uses.
5. Automobile service stations and public garages; new or used car sales areas; new or used farm equipment sales areas; new or used vehicle sales or repair shops; but not including the storage of wrecked vehicles or wrecked farm equipment.
6. Hotels, motels, boarding or lodging houses, and dwelling units, located on the same lot with such a permitted use.
7. Clubs, lodges, public meeting halls, theaters, bowling alleys, similar places of assembly or recreation.
8. Farms implement sales.
9. Feed mills.
10. Signage as follows:
 - a. Advertising and announcement signs which advertise the products, goods or services offered by a specific business conducted on the premises where the sign is located, not exceeding 350 square feet in area (on double faced signs, only 1 side shall be counted in determining square footage); such signs shall be set back from the highway right-of-way line 1 foot for each additional 10 square feet in excess of 100 square feet, and shall provide a minimum of 6 feet of visual clearance above ground level; such signs if illuminated, shall not blink or be mechanically activated in whole or in part; and provided that setback requirements, except as in this paragraph set out, shall not apply to such signs.

- b. Directional signs are those indicating the location of a business offering goods or services conducted on premises located within the town and on a location so set up that persons traveling on the highway may conveniently locate the business, even though located off the highway on which the sign is located. Such signs shall observe setback and side yard requirements, shall not be illuminated and shall not exceed 250 square feet in area.

11. Adult-oriented establishments, subject to the Town's Ordinance Regulating Adult-Oriented Establishments

8.3 Special Uses

The following Special Uses may be located within the Business District, subject to the standards and findings set forth in Section 11 of this ordinance:

1. Golf Courses

8.4 Nonconforming Uses

See section 4.3, 4.4 and 4.5 regarding non-conforming regulations of this ordinance.

8.5 Regulations and Standards:

1. All residential uses shall comply with regulations and standards provided for Residential District. Section 5.2
2. Height of Building: Not to exceed 60 feet.
3. Side Yard. As established for Residential District. Section 5.27
4. Setback. As established for Residential District.
5. Rear Yard. As established for Residential District. Section 5.28.
6. Minimum Lot Size. As established for Residential District. Section 5.251.
7. When an apartment or residence is a part of the business structure, then there shall be sufficient residential square footage to qualify the same under the requirements for residences in the Residential District and subject to the alternative provisions and tests therein contained. This same provision shall apply to multiple family residence, boarding houses and lodging houses.
8. Off-Street Parking Space: Off-street parking spaces shall be provided as follows:
 - a. One off-street parking space per dwelling unit or lodging unit on the same lot or tract of land of such dwelling unit or lodging unit served.
 - b. One off-street parking space per person, normally employed on the lot or tract of land.

- c. One off-street parking space for each 100 square feet of retail sales floor area of the establishment being served.

ARTICLE IX

Section 9.0 Industrial District

9.1 Purpose

The Industrial District is intended to provide space for light and heavy industrial and long-term mineral extraction uses serving the area.

9.2 Permitted Uses

In the Industrial District, no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

1. Any use permitted in the Business District, but not including religious, educational and institutional uses or residential uses other than the dwelling of a watchman or caretaker employed on the premises, the residence of a farmer engaged in general farming on the premises or dormitories and bunkhouses for the accommodation of seasonal workers employed in the harvesting processing or manufacture of food and food products.
2. Cleaning, dyeing and pressing establishments and laundries, except bag cleaning.
3. General farming.
4. Knitting mills and the manufacture of products from finished fabrics.
5. Laboratories.
6. Manufacture of goods from leather, but not tanning of hides, or manufacture of leather.
7. Manufacturing of products not otherwise prohibited.
8. Printing and publishing.
9. Wholesale businesses.
10. Advertising and announcement signs as defined in Section 8.1 (11).
11. Adult-oriented establishments, subject to the Town's Ordinance Regulating Adult-Oriented Establishments.

9.3 Special Uses

The following Special Uses may be located within the Industrial District, subject to the standards and findings set forth in Section 11 of this ordinance:

1. Non-Metallic Mining. Once a non-metallic mining operation has ceased to exit and the land has been reclaimed according to the Fond du Lac County "Non-

"Metallic Reclamation Ordinance", the Town of Eden will initiate a hearing to revert the Industrial Zoning back to an Exclusive Agricultural District.

2. Automobile wrecking yard or junk yard
3. Sanitary landfill.
4. Canneries, cheese factories, condenseries, creameries, sauerkraut and cabbage by-products, pea viners and such other establishments for the processing, packing or manufacture of the agricultural products of Fond du Lac County as may have a nuisance factor not separable there-from, such as the emission or effluence of noxious or odorous wastes or by-products.
5. Repair, service and assembly of motor-propelled or non-motor-propelled vehicles, including the repair and storage of automotive accessories, except the wrecking of motor-propelled vehicles; black-smithing, tin-smithing and welding shops.
6. Storage and warehousing of fuel and materials, and the storage of wrecked and dismantled vehicles, explosives, or inflammable gases or liquids.
7. Micro-wave radio relay structures and mechanical appurtenances. Said structures and appurtenances shall not exceed a height of 500 feet.
8. Public utility or public service corporation building or structures, Electric and/or gas substations, public waterworks and appurtenant structures, telephone exchanges, police stations, fire stations, and governmental administration buildings, provided that the Board of Appeals shall find that the proposed location of such buildings or structures is reasonably necessary for the public convenience, safety or welfare.
9. Topsoil removal.

9.4 Nonconforming Uses

See section 4.3, 4.4 and 4.5 regarding non-conforming regulations of this ordinance.

9.5 Regulations and Standards:

- 1 Minimum Lot Size - 100 feet at building line, 40,000 square feet in area.
- 2 Maximum Coverage - The amount of the total lot area which may be covered by all principal and accessory buildings shall not exceed 50%.
- 3 Required Yards and Open Spaces - On every lot in the Industrial District yards shall be required as follows:
 - a. A front yard on each lot line abutting a street, a side and a rear yard, except in the case where 3 sides of a lot abut a street, there shall be required in addition to 3 front yards, a side yard.
 - b. Front Yard Depth - where a lot abuts a highway or street shall be 60 feet from

the right-of-way.

- c. If the building is to be constructed in an established block where there are existing buildings, the yard depth shall be the average of the yard depths of buildings existing on the block face where the building is to be located, but not less than 15 feet from the right-of-way.
- d. Side Yard - Width shall be 10 feet or greater, no accessory building shall project into the required side yard space.
- e. Rear Yard - Depth shall not be less than 25 feet. Within the required yards or in addition thereto, there shall be sufficient space for the loading and unloading of motor vehicles off the street. Where an industrial lot abuts a Residential District lot, a suitable buffer or plant materials, fencing or a combination of both shall be provided to shield the residential area from the industrial area. Where the transition from the Industrial District to the Residential District is a public street, the front yard in the Industrial District shall be suitably landscaped.
- f. Any permitted use shall be so constructed and operated as to create no nuisance with respect to noise, vibration, emission of smoke or particulate matter, glare and heat or as to create fire or explosive hazards.

9.6 Off-Street Parking Space - Off-street parking shall be provided as follows:

- 1 One off-street parking space per person normally employed on the lot or tract of land.
- 2 One off-street parking space for each truck or other vehicle incidental to the use of such lot or tract of land.

9.7 Signs - Signs are permitted as an accessory use to the principal use of the premises.

- 1 The gross area of signs per establishment shall not exceed 2 times the lineal feet of frontage of the zoning lot on which such signs are located.
- 2 No signs affixed to a structure shall project more than 3 feet beyond the limits of such structure and shall not project across lot lines.

9.8 Unsewered Lots - On lots not served by public sewer, sufficient lot area shall be provided so that the requirements of Fond du Lac County Sanitary Code and all provisions of the Administrative Code relating to the use and occupancy of the building are complied with.

ARTICLE X

Section 10.0 Highway Setback Lines

10.1 Purpose

In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Eden, Fond du Lac County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided.

Where a highway is located on a village boundary, this section is not intended to be effective on the side within the village, nor on the side within another town where the highway is located on a town boundary.

10.2 Classes of Highways and Center Lines

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

Class 1 Highway.

1. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is the midway point between the edges of the road surface.
2. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.
3. Roads and streets in platted subdivisions not otherwise classified. The center line is the midpoint between the edges of the road surface.
4. Private roads. The center line is at the mid-point between the edges of the road surface.

Class 2 Highway

1. County Trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
2. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. The center line is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.

Class 3 Highway

State Trunk Highways, except as hereinafter provided, that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States highways. The center line is the center of the roadbed, or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double-divided road.

10.3 Structures Prohibited Within Setback Lines

No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established by this ordinance and the highway, except as provided by this ordinance, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the effective date of this ordinance shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of 50% or more of its current value as determined by the local assessor.

10.4 Structures Permitted Within Setback Lines

The following kinds of structures may be placed between the setback line and the highway:

1. Open fences.
2. Telephone, telegraph and power transmission poles and lines and micro-wave radio relay structures may be constructed with the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this ordinance at his expense, when necessary for the improvement of the highway.
3. Underground structures not capable of being used as foundations for future prohibited overground structures.
4. Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.
5. This section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.

10.5 Setback Distances: Except as otherwise provided, the distances from the center line to the setback line applicable to the various classifications of highways as defined in Paragraph 10.1 of this section, shall be as provided by the following paragraphs of this subsection, respectively.

1. Whenever a highway is improved to a classification requiring a greater setback

distance than that required by this ordinance prior to such improvement, the setback distance shall be that applicable to the latter classification.

2. In cases where the provisions of this section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.
3. Along Highways Generally. The setback distances from the center line, at any point for the respective classes of highways, shall be as follows:
 - a. Class 1 highway, 100 feet, except in platted subdivision where the setback distance shall be 30 feet from the right-of-way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be 50 feet from right-of-way line but not less than 75 feet from the center line of said road as shown on the instrument creating said road or road easement.
 - b. Class 2 and Class 3 highways, 100 feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than 60 feet for Class 2 and Class 3 highways.
 - c. Exceptions: Where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this ordinance which buildings are located not more than 150 feet apart and have setback lines less than are established by this section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than 100 feet from the center line of the highway, or 65 feet from the right-of-way line, shall not be required in any case. The Board of Appeals may further vary this regulation in appropriate cases, provided that the Board of Appeals shall establish such conditions as will save the town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a setback less than the average setback of the adjacent buildings.
4. At Ordinary Highway Intersections. At grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and 50 feet back from the intersection of such setback lines.
5. At Highway Intersections with Transitional Widening. At intersections 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.
6. At Highway Intersection with Curve Connections. At intersections where the

intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.

7. At Railroad Grade Crossings. At railroad grade crossings there shall be vision clearance triangles in each sector of such intersection. Each such vision clearance triangle shall be established by a supplementary setback line which shall be a straight line connecting points on the railway right-of-way line and the highway setback line and 75 feet back from the intersection of such highway setback lines and such railway right-of-way line.

ARTICLE XI

Section 11.0 Special Uses

11.1 Definition A "Special Use" is a use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein. It is hereby declared the policy and purpose of this ordinance to employ the Special Use as 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.

11.2 Authorizing Special Use Permits: The Town Board, based on a recommendation from the Plan Commission, may authorize Special Use permits in accordance with the procedure set forth in Section 11 when it appears.

1. That it is reasonably necessary for the public convenience at that location.
2. That it is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare.
3. That it conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located.
4. That in the case of an existing non-conforming use, will make such use more compatible with its surroundings.

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

1. North arrows, date of preparation, and scale on 8½" x 11" size paper
2. Name(s) of all adjacent or surrounding streets and right-of-way width(s) and recorded property lines and their dimensions
3. 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
4. Dimensions of existing and proposed yard setbacks for buildings and structures
5. Dimensions of existing and proposed parking, loading, and unloading areas, and size of existing and proposed driveways
6. The location of proposed and existing signage and the location and type of all proposed and existing exterior lighting fixtures
7. The location, height and materials of all proposed and existing fences or retaining walls

- 8 Stormwater and erosion control plan
- 9 Other additional information that may be deemed appropriate by the Town Board.

Note: When applying for a nonfarm residential Special Use permit in a certified Exclusive Agricultural district, the petitioner should be aware of the following:

1. *Based on the 1 acre residential lot size in the Exclusive Agricultural District and on the 1:20 ratio of nonfarm acreage to farm acreage, a base farm tract will be 21 acres or larger in order to allow a one and one-half acre nonfarm residential Special Use Permit.*
2. *The maximum amount of nonfarm residential acreage cannot exceed the amount determined by the following formula: Nonfarm Residential acreage = Total Base Farm Tract acreage divided by 21.*
3. *The amount of nonfarm acreage available for lot creation will be determined by the Zoning Administrator prior to accepting a conditional use application.*
4. *The list of nonfarm residential acreages counted toward the ratio calculation should also include any existing nonfarm residences that do not have a Special Use permit or that are not part of the application for the Special Use permit.*

11.4 Standards for Granting Special Use Permits

No Special Use permit shall be recommended by the Plan Commission or approved by the Town Board unless it shall find that:

1. **Zoning** The proposed use conforms to the general purposes and intent of the Eden Zoning Ordinance.
2. **Comprehensive Plan** The proposed use is consistent with the goals and objectives of the Eden Comprehensive Plan
3. **Traffic** Access to the property can meet access control requirements, if any
4. **Landscaping and screening.** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use.
5. **Sanitary facilities** The sanitary facilities will be sufficient for the intended special use being applied for.

11.5 Optional Standards for Granting Special Use Permits

The Plan Commission and Town Board may require the following additional standards when approving a Special Use permit:

1. Increased setbacks and yards
2. Specifications for water supply, liquid waste, and solid waste disposal facilities
3. Sureties, operational controls, erosion prevention measures

4. Location of the use
5. Other requirements found necessary to fulfill the purpose and intent of this ordinance
6. A performance bond may be required to insure compliance with such requirements
7. Violation of these conditions shall constitute a violation of this ordinance as provided in Section 15

11.6 Existing Nonfarm Residences in the Exclusive Agricultural District

The Town of Eden, upon its own initiative, or upon application by a property owner, may initiate the action to grant a special use permit for an existing nonfarm residence in the Exclusive Agricultural District. Findings for this specific special use shall be based on the following findings:

1. The nonfarm residence was granted a building permit by the Town of Eden prior to the adoption of this ordinance.
2. The nonfarm residence is shown on the Town of Eden's Land Use Plan as a residential land use.
3. The nonfarm residence will not convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence.
4. The nonfarm residence will not impair or limit the current or future agricultural use of other protected farmland.

11.7 Conditions, Guarantees and Validity Period

The following conditions, guarantees and validity period may be imposed upon the granting of a Special Use permit:

1. Prior to the granting of any Special Use permit, the Plan Commission may recommend and the Town Board may place such conditions and restrictions upon the establishment, location, 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 11.5. In all cases in which Special 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).
2. Special 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.

3. A Special 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 Special Use permit, the Special Use permit expires.
4. Any party who has been issued a Special 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 Special Use Permit expiration date.
5. A Special Use permit shall become effective upon approval by the Town Board. A record of the Special Use permit shall be maintained in the Town Hall.
6. A Special 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.

11.8 Non-Metallic Mining in Exclusive Agricultural and Industrial Zoning

1. Non-Metallic Mining, provided mineral extraction operations shall take place for less than four years, the land shall be restored to agricultural production within another two years (unless the Town Board grants a renewal of the license), and that non-metallic mining operations meet the following provisions
 - a. The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.
 - b. The operation and its location in the Exclusive Agricultural District are consistent with the purposes of the Exclusive Agricultural District.
 - c. The operation and its location in the Exclusive Agricultural District are reasonable and appropriate, considering alternative locations outside the Exclusive Agricultural District, or are specifically approved under state or federal law.
 - d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - e. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - f. The owner shall restore the land to agricultural use, consistent with the Fond du Lac County "Non-Metallic Reclamation Ordinance" (consistent with s.s. 295.13) adopted on July 19, 2007, when extraction is completed.

2. **Application** Non-metallic mining may include washing, crushing, quarrying, borrow pits, or other processing or removal of mineral resources, the erection of buildings and the installation of necessary machinery used in the said extraction and processing, and the preparation of hot black top mix or ready-mix concrete, and the operation of lime kilns; Nonmetallic mining operations are subject to the following additional standards, which apply to all nonmetallic mining operations in the Town.
- a. An application for a permit shall be submitted by the owner and shall include an adequate description of the operation; a plan of the site showing proposed and existing roads and drives, the sources, quantity and disposition of water to be used, if any; estimated dates for the completion of the extraction and commencement and completion dates for the reclamation; a reclamation plan, and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area.
 - b. The reclamation plan shall contain adequate provision that all final slopes around the area be flatter than a 3 to 1 horizontal slope in a sand and gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation; excavations below the grade of the nearest abutting public street or highway shall be set back from said street or highway a distance not less than that required for buildings and structures under this ordinance; all final slopes shall be covered with topsoil and seeded to prevent future erosion; the plan shall require that after completion of the anticipated operation the area shall be cleared of all debris and be left in a clean condition, subject to the approval of the Town Board or its agent. The reclamation plan shall indicate the proposed future use or uses of the site; however, the proposed re-use of the site for a dumping grounds shall have the concurrence of the Town Board.
 - c. Application for a permit for mineral extraction operations proposed to be located within 600 feet of a Residential District, a residential subdivision or a city or village limits line, or within 300 feet of any building occupied for Residential purposes; or for a hot blacktop mix or a ready-mix concrete plant, shall not be granted except on approval of the Town Board given after the public hearing has been held.
 - d. The permit shall be for a period of time as stated in the application or as modified by the Plan Commission and Town Board. The Plan Commission and Town Board, where such approval is required, shall consider the effect of the proposed operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The application and/or reclamation plan may be approved, approved conditionally, or rejected.
 - e. No permit shall be granted for a period of time exceeding 4 years, unless approved by the Town Board. A renewal may be granted upon application provided that the applicant has fully complied with the terms of this

ordinance and the permit issued hereunder. A public hearing will be required prior to renewal.

- f. A filing fee of \$50 shall be required for each initial application, and a filing fee of \$20 for each renewal application.
- 3. All existing mineral extraction operation lawfully operated prior December 13, 1982 shall be considered non-conforming uses and may be continued provided that they have been worked prior to the date of the adoption of this provision of this ordinance.

11.8 Special Uses considered in any Zoning District (Except in the Exclusive Agricultural District, where the following uses are subject to requirements in State Statutes, sections 91.01(1) or 91.46).

- 1. Cemetery
- 2. Private Airport
- 3. Solar Energy Systems For purposes of this section, "solar energy system" means equipment that directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. "Solar energy system" excludes solar powered light fixtures that are ground or wall mounted, solar powered electric fences, and portable solar energy systems as well as any solar powered system that does not convert and then transfer or store solar energy into usable forms of thermal or electrical energy.
 - a. Every application for a solar energy system special use permit shall be made in writing and shall, upon request, include the following information:
 - (1) Name and address of applicant.
 - (2) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - (3) Scaled drawing of the solar energy system and its dimensions, its height above ground level, orientation, and slope from the horizontal.
 - (4) Site plan showing lot lines and dimensions of the solar energy system user's lot and neighboring lots that will be affected by the solar energy system.
 - (5) Documentation showing that no reasonable alternative location exists for the solar energy system that would result in less impact on neighboring lots.
 - (6) Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the solar energy system that would result in less impact on neighboring lots.
 - (7) Such additional information as may be reasonably requested.
 - (8) Any of the information required by this section may be waived by the Town at its discretion.

- b. The Town will consider each solar energy system on a case-by-case basis. The Town may deny a special use permit for a solar energy system or may impose restrictions on a solar energy system if the Town finds that the denial or restrictions satisfy one of the following conditions:
 - (1) The denial or restriction serves to preserve or protect the public health or safety.
 - (2) The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
 - (3) The denial or restriction allows for an alternative system of comparable cost efficiency.
- c. The Town may impose restrictions on a solar energy system relating to any of the following:
 - (1) Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
 - (2) Wiring and electrical controls of the solar energy system.
 - (3) Reimbursement for emergency services required as a result of the solar energy system.
 - (4) Solar energy system ground clearance.
 - (5) Solar energy system height.
 - (6) Any other matters that the Town finds appropriate.
- d. Any special use permit for the installation or maintenance of a solar energy system may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a special use permit granted pursuant to this ordinance.

ARTICLE XII

Section 12.0 Zoning Board of Appeals.

Under the provisions of Section 62.23 (7) (e) Wisconsin Statutes, there is hereby established a Board of Appeals.

12.1 Organization of Board of Appeals

The Board of Appeals shall consist of 5 members appointed by the Town Chairman and subject to confirmation of the Town Board for terms of 3 years. The members of the board shall serve at such compensation to be fixed by resolution. The Town Chairman shall designate one of the members chairman. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

12.2 Meetings of the Board of Appeals

The board shall adopt rules in accordance with the provisions of this section. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine.

Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

12.3 Power of the Board of Appeals

The Board of Appeals shall have the following powers:

- 1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination by an administrative official in the enforcement of this ordinance.
 - a. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer of the town affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days of filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the board all the papers constituting the record upon which the appeals action was taken.
 - b. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof by a Class 1 notice under Chapter 985, Wisconsin Statutes, in an official paper or a paper of general circulation and by posting in 3 public places, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by

agent or by attorney.

- 2 To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
- 3 To interpret the provisions of this ordinance where the street layout on the ground differs from Official Zoning Map.
- 4 To authorize upon appeal in specific cases, a variance from the standards of the ordinance as will not be contrary to the public interest, except that no use variances shall be granted. A variance for the purpose of this ordinance shall not be granted unless:
 - a. A written application for a variance is submitted demonstrating:
 - (1) That special conditions exist which are peculiar to the land or structure involved which are not applicable to other lands or structures in the same district.
 - (2) That literal enforcement of 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.
 - (3) That the special conditions and circumstances do not result from the actions of the applicant.
 - (4) 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.
 - b. 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.
 - c. The application is in proper form and a fee as specified in Section 14.2 has been paid. The board shall hold a public hearing on such matter in accordance with the provisions of Section 12.31(b). 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.
- 5 Exercise of Power
 - a. In exercising the above mentioned powers such board may, in conformity with the provisions of such section, reverse or affirm, wholly or partly; or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.
 - b. The concurring vote of 4 members of the board shall be necessary to reverse any order, requirement, decision or determination of any such 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 such ordinance. The grounds of every such determination shall be stated.

ARTICLE XIII

Section 13.0 Plan Commission

13.1 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 Eden's Comprehensive Plan.

13.2 Membership

The Plan Commission consists of five (5) members consisting of Town elected or appointed officials, except that at least three (3) must be citizen members who are not otherwise Town officials, and up to two (2) alternates. 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 advisory 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.

13.3 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 30, or until a successor is appointed.

13.4 General and Miscellaneous Powers

The Plan Commission shall:

1. Be governed by the provisions of Section 62.23(7) of the Wisconsin Statutes, the Zoning Ordinance of the Town of Eden 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.
2. Initiate, hear, review and offer its recommendations to the Town Board on applications for amendments to this chapter.
3. 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.
4. Be enabled to promote Town planning.
5. Hear, review and offer its recommendations to the Town Board on applications for Special Use permits, subdivisions, street vacations and name changes, and other matters.

6. 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.
7. Recommend to the Town Board programs for public improvements and the financing of such improvements.
8. Receive from public officials, within reasonable time, requested available information required for the Commission to do its work.
9. 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.

13.5 Town Comprehensive Planning Authority and Requirements

1. The Plan Commission, under sec. 62.23(2), recommended adoption of the Town of Eden Comprehensive Plan. On April, 2009, 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.
2. 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.
3. 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.

ARTICLE XIV

Section 14.0 Enforcement

14.1 Duty

It shall be the duty of the Building Inspector to enforce the provisions of this ordinance.

14.2 Record of Nonconforming Structures

The Building Inspector shall prepare a record of all buildings, structures and mobile homes situated within the setback lines as established by this ordinance, or any amendments thereto, which shall include the distances of such buildings, mobile homes or structures from the center line of the adjacent highway, their size, type of construction and use, the quarter section in which they are situated, the names and addresses of the owner and occupant of the premises and the date on which the record is made. Such record shall be kept current and shall show any such buildings structures or mobile homes that may be removed or

damaged to the extent that their reconstruction will be contrary to this ordinance.

14.3 Land Use Permit

Any building, structure or mobile home hereafter erected, enlarged, moved, or altered so as to change the outside dimensions or the use of that building shall require a land use permit. For the purposes of this section, a portable structure shall be defined as one not set on a concrete slab or footing, or a structure less than 144 square feet in area. No land use permit shall be issued until the Building Inspector has satisfactory proof that the premises are in full compliance with the Fond du Lac County Subdivision.

14.4 Applications

All applications for a land use permit shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved the existing and/or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance.

14.5 Survey

All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

14.6 Certificate of Compliance.

- 1 No vacant land shall be occupied or used, and no building or mobile home hereafter erected, altered or moved shall be occupied until the certificate of compliance shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this ordinance. Such certificate shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this ordinance.
- 2 Under such rules and regulations as may be established by the Town Board, the Building Inspector may issue a temporary certificate of compliance for part of a dwelling.
- 3 Upon written request from the owner, the Building Inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

ARTICLE XV

Section 15.0 Fees

15.1 Land Use Permit

A fee in an amount determined by the Town Board is required to be paid by the applicant for a building permit, or for a certificate of occupancy where no building permit was required. The fee shall be paid to the Town Treasurer.

15.2 Board of Appeals Fee

A fee in an amount determined by the Town Board 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 official capacity.

15.3 Rezoning Fees

A fee in an amount to be determined by the Town Board is required for any petition for the amendment of this zoning ordinance, which fee shall be paid to the Town Treasurer and receipt therefore filed with the amendment petition. In addition thereto, a petitioner shall be charged with the cost of the official newspaper publication of the notice of hearing. This provision shall not apply to amendments initiated by the Town Zoning Committee.

15.4 Permit Expiration

Land use permits, certificates of occupancy and any other permit required under this ordinance shall expire within 12 months of the date of its issuance.

15.5 Conversion Fee

(Beginning on January 1, 2010) In addition to any other fee, any person who requests rezoning from the Exclusive Agricultural District to any other zoning district must pay to the Town of Eden, for each rezoned acre or portion thereof, a Conversion Fee equal to three times the per acre value, for the year in which the land is rezoned, of the highest value category of tillable cropland in the Town of Eden, as specified by the Wisconsin Department of Revenue under Wis. Stats. 73.03 (2a) and a fifteen (15) percent administrative fee. The conversion fee must be paid when the rezoning application is filed with the town. If the rezoning is denied, the conversion fee will be refunded, except for the administrative fee.

15.6 Schedule of Conversion Fees:

1. The schedule of conversion fees may be adjusted based on the annual Department of Revenue (DOR) Use Value Guidelines for Agricultural Land Assessment table. Such adjustment shall occur annually by the Town Board and shall be kept on record with the Town Clerk.

2. By March 1 of each year, the Town of Eden will provide all of the following to DATCP.
 - a. A report of the number of acres that the Town of Eden has rezoned out of a Exclusive Agricultural District the previous year and a map that clearly shows the location of those acres.
 - b. A conversion fee for each rezoned acre reported.
 - c. A report of the total amount of conversion fees that the Town of Eden received as conversion fees for the rezoned acres.

ARTICLE XVI

Section 16.0 Violations and Penalties

16.1 Building Code Violations

Any building, structure or mobile home hereafter erected, enlarged, altered, repaired or moved or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure, or mobile home or use. The Building Inspector shall promptly report all such violations to the Town Board, which shall instruct the attorney for the town to bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building, structure or mobile home or the establishment of such use, or to cause such building, structure, mobile home or use to be removed.

16.2 Penalties

Any person, firm, corporation, or organization which violates, omits, neglects, or refuses to comply with or resists the provisions of this ordinance shall, upon conviction, be punished by a fine of not less than \$100 or more than \$1,000, together with the costs of prosecution, including reasonable attorney's fees, and in default of payment thereof be imprisoned in the county jail of Fond du Lac County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. In addition to the preceding, the town is authorized to seek and obtain injunctive relief in order to enforce this ordinance. Whenever a person shall have been notified by the Building Inspector or a member of the Town Board that he is in violation of the provisions of this ordinance, such person shall commence correction of all violations within 7 days after notice, and shall correct all violations within 30 days after notice. If corrections are not commenced within 7 days of notice or not completed within 30 days of notice, each day that a violation continues shall be considered a separate offense for purposes of determining the amount of the minimum fine. No person shall be issued or re-issued a building permit, a Special Use permit or any other permit under this ordinance, if said person:

1. Fails to meet or comply with the building codes established by the Town
2. Fails to meet or comply with the provisions of this ordinance
3. Fails to comply with Fond du Lac County or State of Wisconsin zoning and building code requirements
4. Fails to pay all relevant fees for building permits and any other charges imposed by the town; or fails to comply with any special orders or conditions imposed by the building inspector or the Town Board

ARTICLE XVII

Section 17.0 Changes and Amendments

17.1 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.

17.2 Public Hearing and Notice

1. **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 90 days, the Town Board may proceed to hold a public hearing without the recommendation.
2. **Notice of Hearing:** A Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes shall be published in the Town of Eden's official newspaper once during each of the two weeks prior to the Town Board hearing.
3. **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.

17.3 Final Approval by Town Board

An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change and publication as required by law.

17.4 Rezoning Findings of Fact

1. **Applicant Documentation:** The applicant who desires to rezone land from an Exclusive Agricultural District to another zoning district will be responsible for documenting how section 91.48(1)(a) of the Wisconsin State Statutes will be met. Such documentation must be submitted as part of the rezoning application before the Town of Eden's Zoning Administrator will accept the petition as complete.
2. **Plan Commission Findings of Fact:** The Plan Commission shall include a "findings of fact" in their recommendation to rezone land out of the Exclusive Agricultural District. If a petitioner is rezoning lands out of the Exclusive Agricultural District, all of the following facts must be found in the Plan Commission's "findings of fact", based on 91.48 (1) (a) of the Wisconsin State Statutes:
 - a. The land is better suited for a use not allowed in the Exclusive Agricultural District.

- b. The rezoning is consistent with any applicable comprehensive plan.
- c. The rezoning is substantially consistent with the county certified farmland preservation plan.
- d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

3. **Town Board Findings of Fact**

Upon consideration of the Plan Commission's recommendations and "findings of fact", the Town Board must make a motion to either send the rezoning back to the Plan Commission for further consideration, approve the rezoning, or deny the rezoning. The Town Board has the option of revising the Plan Commission's "findings of fact" in their motion. The Town Board's decision to grant a rezoning out of the Exclusive Agricultural District shall also include "findings of fact" in writing, based on 91.48(1)(a) of the Wisconsin State Statutes as referenced in 17.4.2, a through d.

4. **Notification of Amendment to the Zoning Text:**

- a. This zoning ordinance must be certified in accordance with Ch. 91.38 Wis. Stats. in order for owners of farms in the Town of Eden to claim tax credits under the Farmland Preservation Program.
- b. An amendment to a certified Exclusive Agricultural zoning ordinance is automatically considered to be certified as part of the ordinance, except for the amendments described in Ch. 91.36(8)(b) Wis. Stats.

ARTICLE XVIII

Section 18.0 Validity and Conflicts

- 18.1** Should any section, clause or provisions of this ordinance be declared by courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- 18.2** All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

ARTICLE XIX

Section 19.0 Effective Date

This ordinance shall be in force from and after its passage, approval, publication and recording according to law. (The Town of Eden Originally adopted their first Zoning Code on December 13, 1982 and amended said ordinance on January 12, 1987 and June 13, 1994)

Drafted by:

Warren Utecht, Vice President of Planning
Martenson & Eisele, Inc.

Reviewed by:

Matthew Parmentier
Edgerton, St. Peter, Petak & Rosenfeldt

TOWN OF EDEN

Richard G Guell, Town Chairman

Attest:

Brenda J. Gosein, Town Clerk

Passed and Adopted: August 8, 2011