

Town of Waterville

Zoning Ordinance

This ordinance is established to promote the prosperity of the Town of Waterville ("Town"), more specifically, to promote the health, safety, morals and the general welfare of the community.

Purposes:

To implement an ordinance providing for the regulation and control of land use, building, land subdividing and platting of existing parcels in the Town, establishing procedures and requirements for the surveying, mapping, measuring and recording of all subdivided land; to further the orderly layout and use of land; to secure safety from fire and other dangers; to prevent overcrowding of land; to avoid undue concentration of population; to insure the maximum preservation of agricultural land for agricultural purposes; and to facilitate adequate provisions for transportation, water, sewerage and other public requirements.

Authority:

These regulations are adopted under the authority granted by §§60.62(1), 61.35 and 62.23, Wis. Stats. The Town of Waterville, Pepin County, Wisconsin, does ordain as follows:

Uses:

Permitted Uses. Permitted uses for each zoning district may be undertaken in that district upon compliance with other applicable laws and ordinances (for example, building permits, sanitary system regulations, operator's licenses, etc.).

Conditional Uses. Conditional uses for each zoning district may not be undertaken in that district, except upon approval of a conditional use permit, and upon compliance of the use with other applicable laws and ordinances.

See Section V for details on how to apply for a conditional use.

Temporary Uses. The following temporary uses may be established in any district from which they are otherwise excluded by the regulations of this Ordinance, under the conditions hereinafter specified:

1. Temporary buildings and the temporary storage of materials and equipment incidental to the construction of buildings on the premises.
2. A house trailer or mobile home to be occupied by an owner or builder, while residential construction is in progress.

Permits for such uses shall be required if such use will, or does persist for more than four months. The permit may be issued by the Town Board and shall allow the temporary use for a period not to exceed one year. Extensions of the use beyond one year shall require a conditional use permit.

Uses Not Listed. Uses not listed as either permitted uses or conditional uses in a zoning district may not be undertaken in the district without a variance.

Nonconforming Uses and Structures. Commonly referred to as “grandfathered,” non-conforming uses are uses that were lawful under the existing laws at the time they began, but would no longer be permitted under current laws. See Section VI for details on those circumstances when nonconforming uses may be continued.

Districts:

For the purpose of this ordinance, the Town of Waterville, Pepin County, Wisconsin is hereby divided into four districts, as follows:

1. Residential District
2. Mixed Use Commercial-Residential District
3. Agricultural-Residential District
4. Agricultural District

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

Section I: Residential District Use.

A. Purpose. The residential district is created to establish and protect the essential characteristics of areas within which predominantly low-density residential use should occur, along with certain community and recreational uses to serve the residents of the district. Multiple-family residential uses shall be allowed as conditional uses where permitted by the Town Board upon application of standards intended to protect the public interest.

B. Permitted uses.

1. Single and two family dwellings
2. Accessory buildings, including private garages and buildings clearly incidental to the residential use of the property; provided, however, that no accessory building may be used as a separate dwelling unit.
3. Churches, Schools, Libraries, Municipal Buildings, Public Recreational and Community Center and Grounds.
4. Home occupations which do not generate onsite customer visits or additional traffic.

C. Conditional uses.

1. Home occupations which generate onsite customer visits and additional traffic.
2. Professional office.
3. Residential day-care facility.
4. Warehousing or mini-storage facility.

5. Multiple family dwellings (three or more, such as apartment buildings, senior housing, assisted living, and nursing homes). Multiple family dwellings may be permitted if the Town Board finds:
 - a. The establishment of the use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - b. The uses, values and enjoyment of other property in the neighborhood shall be in no foreseeable manner substantially impaired or diminished by the establishment of the use.
 - c. The establishment of the use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
 - d. Adequate utilities, access roads so designed as to minimize traffic congestion on public streets or highways and other hazards, drainage and other necessary site improvements have been provided. The Board may require a bond or other security to assure completion of agreed improvements.

D. Setbacks, street access, miscellaneous.

1. Street: Unless otherwise provided, there shall be a 50 foot setback from the centerline of the street to any building or projection thereof.
2. Side: There shall be a side setback line of not less than 25 feet from side property lines.
3. Rear: There shall be a rear setback line of not less than 10 feet from the rear property line.
4. Access: All lots shall abut a public street.

Section II: Mixed Use Commercial-Residential District.

A. Purpose. The mixed use commercial-residential district is created to encompass those parts of the Town which are historically a mixed-use of commercial and residential in the unincorporated village of Arkansaw, and any additional areas which the Town Board determines such a district would be in the best interest of the Town.

B. Permitted Uses.

1. The permitted uses in the Residential District.
2. General commercial uses such as:
 - a. Retail establishments, including repair businesses, and barber and beauty shops.
 - b. Professional offices, food and clothing store, bed and breakfast or lodging facility.
 - c. Agricultural-Business facilities, including veterinary facilities and services.
 - d. Filling stations, restaurants, and bars.

C. Conditional Uses.

1. Any residential or commercial use similar in nature to the listed permitted uses

Section III: Agricultural-Residential District.

A. Purpose: The agricultural-residential district is created to establish areas within which agricultural uses, commercial uses serving agriculture, limited institutional uses, and limited residential uses may be located. This district is intended to include areas in which exclusivity of agricultural use on an area-wide basis is not warranted because of such factors as the existence of mixed uses prior to the date the district was established and located, demonstrated or expected ability of farm and selected nonfarm uses to exist in close proximity without undue conflict, proximity to existing urban areas, or a determination that the area is in a state of transition to urban-residential character.

B. Permitted Uses.

1. The permitted uses in the Residential District.
2. The permitted uses in the Agricultural District.
3. Roadside produce stands.

C. Conditional Uses.

1. The conditional uses in the Residential District, subject to the same conditional use requirements of the Residential District.
2. Agricultural supply business such as farm machinery dealers and seed, fertilizer and chemical dealers, and industries which process agricultural products largely produced on nearby farms, also nursery which includes landscape supply business whose property has frontage on a state or county highway.
3. Kennels, when located not less than 600 feet from any lot line shared with premises devoted to residential uses (except for the residence of the owner of such kennels, his family, agents, employees or tenants).
4. Licensed game management or fur farms as set forth in Chapter 29 of the Wisconsin Statutes.
5. Limited (in duration or scope as determined by the Town) commercial recreational activities which are found to be subordinate to the primary agricultural use of the property which are compatible with the agricultural use on that and surrounding properties, and which are not likely to attract other related commercial uses. For example, a pick your own berry or fruit operation, a corn maze, or a one-time farming promotional event.
6. Subdivisions. Subdivisions that may be permitted under the Pepin County subdivision ordinance also require a conditional use permit from the Town.
7. Veterinary medical facilities.

Section IV: Agricultural District.

A. Purposes. The purposes of the agricultural district are to:

1. Preserve agricultural land for food and fiber production;
2. Protect productive farms;

3. Maintain a viable agricultural base to support agricultural processing and service industries;
4. Prevent conflicts between incompatible uses;
5. Reduce costs of providing services to scattered non-farm uses;
6. Implement the provisions of the county agricultural plan as adopted and periodically revised; and
7. Comply with the provisions of the Farmland Preservations Law, Chapter 91, Wis. Stats., to permit eligible landowners to receive tax credits under sec. 71.59, Wis. Stats.

B. Definitions. In the Agricultural district:

1. "Accessory use" means any of the following land uses on a farm:
 - a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - i. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - ii. A facility used to keep livestock on the farm.
 - iii. A facility used to store or process inputs primarily for agricultural uses on the farm.
 - iv. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - v. 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.
 - vi. 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.
 - vii. 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:
 - i. It is conducted on a farm by an owner or operator of that farm.
 - ii. It requires no buildings, structures, or improvements other than those described in paragraph (a) or (c).
 - iii. It employs no more than 4 full-time employees annually.
 - iv. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
2. "Agricultural use" means any of the following activities conducted for the purpose of

producing an income or livelihood:

- a. Crop or forage production.
 - b. Keeping livestock.
 - c. Beekeeping.
 - d. Nursery, sod, or Christmas tree production.
 - e. Floriculture.
 - f. Aquaculture.
 - g. Fur farming.
 - h. Forest management.
 - i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
3. "Agriculture-related use" 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 agricultural zoning district.
 - b. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the agricultural zoning district.
 - c. Slaughtering livestock, including livestock from farms in the agricultural zoning district.
 - d. Marketing livestock to or from farms, including farms in the agricultural zoning district.
 - e. Processing agricultural by-products or wastes received directly from farms, including farms in the agricultural zoning district.
4. "Base farm tract" means all land, whether one parcel or 2 or more contiguous parcels, which is in a agricultural zoning district and is part of a single farm on March 1, 2011, regardless of any subsequent changes in the size of the farm.
5. "Common ownership" means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for the purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.
6. "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.
7. "Farm" means all land under common ownership that is primarily devoted to agriculture use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
- a. The land produces at least \$6,000 in annual gross farm revenues to its owner or

- renter, regardless of whether a majority of the land area is in agricultural use.
- b. A majority of the land area is in agricultural use.
8. "Farm acreage" means, for purposes of paragraph F (2) (a), the combined total acreage of all of the following in the "base farm tract":
 - a. Farms.
 - b. Open space parcels of more than 10 acres.
 9. "Farm residence" means any of the following structures located on a farm:
 - a. A single-family (or duplex) residence that is the only residential structure on the farm.
 - b. A single-family (or duplex) residence that is occupied by any of the following:
 - i. An owner or operator of the farm.
 - ii. A parent or child of an owner or operator of the farm.
 10. "Gross farm revenue" means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Gross farm revenue" includes receipts accruing to a renter, but does not include rent paid to the land owner.
 11. "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, farm raised camelids (e.g. llamas), farm raised ratites (e.g. ostriches) and farm-raised fish.
 12. "Non-farm residence" means any residence other than a farm residence.
 13. "Nonfarm residential acreage" means, for purposes of paragraph G(2)(a), the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Zoning Committee has approved nonfarm residence, all parcels 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres.
 14. "Open space parcel" means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
 15. "Person" means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
 16. "Prime farmland" means all of the following:
 - a. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - b. Land, other than land described in paragraph (a), which is identified as prime farmland in Pepin County's certified farmland preservation plan.
 17. "Prior nonconforming use" means a land use that does not comply with this agricultural zoning ordinance, but which lawfully existed prior to the application of this ordinance.
 18. "Protected farmland" means land that is any of the following:

- a. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
- b. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
- c. Covered by an agricultural conservation easement under sec. 93.73, Wis. Stats.
- d. Otherwise legally protected from nonagricultural development.

C. Land use in the agricultural zoning district; general. Only the following land uses are allowed in the agricultural zoning district:

1. Uses allowed under paragraph E without a conditional use permit.
2. Uses allowed under paragraph F with a conditional use permit.
3. Lawful nonconforming uses.

D. Land included. The minimum parcel size to establish a residence or a farm operation shall be two (2) acres.

E. Permitted uses. The following land uses are allowed without a conditional use permit in an agricultural zoning district:

1. Agricultural uses and accessory uses on farms, except that a conditional use permit is required under paragraph F (4) for the following agricultural uses and accessory uses on farms:
 - a. A new or expanded facility used to keep cattle, swine, poultry, sheep or goats, if that facility will have no more than 500 animal units.
 - b. An on-farm riding stable and or boarding facility.
 - c. A large on-farm fuel or agrichemical storage facility.
 - d. A farmstead food processing facility.
 - e. A farmstead retail outlet.
 - f. A manure storage system.
 - g. A mobile home or trailer used as a farm residence if it is situated on a foundation with tongue and wheels removed within six months of placement and connected to a water system and sewer system.
2. Nonfarm residences constructed in a rural residential cluster according to a conditional use permit issued under paragraph F (3) for that cluster.
3. Undeveloped natural resource and open space areas.
4. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

F. Conditional uses.

1. General.
 - a. The Town Board may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions

under this section. The Town Board shall follow the procedures described in Section V, Conditional Uses.

- b. Before issuing a conditional use permit under paragraph (a), the Town Board shall determine in writing that the proposed use meets applicable conditions under this section. The Town Board may issue the permit subject to any additional conditions which the Town Board deems necessary to carry out the purposes of this ordinance.
2. Nonfarm residences. The Town Board may issue a conditional use permit for a proposed nonfarm residence if all of the following standards will be met when the approved nonfarm residence comes into existence:
 - a. If the nonfarm residence will be located in a base farm tract:
 - i. The ratio of nonfarm residence acreage to farm acreage in the base farm tract will not exceed 1:20.
 - ii. There will be no more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, in the base farm tract.
 - b. Neither the nonfarm residence, nor the parcel on which the nonfarm residence is located, will do any of the following:
 - i. Convert prime farmland, or cropland other than a woodlot, from agriculture use if there is a reasonable alternative available to the permit applicant.
 - ii. Significantly impair or limit the current or future agricultural use of any other protected farmland.
 3. Nonfarm residential clusters. The Town Board may issue a single conditional 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:
 - i. The total number of nonfarm residences authorized by the permit.
 - ii. A certified survey map of each parcel on which a nonfarm residence is authorized.
 - iii. The number of nonfarm residences authorized on each parcel under Subparagraph 2. if more than one.
 - iv. The number of dwelling units authorized in each authorized nonfarm residence, if more than one.
 - b. Each of the parcels described under paragraph (a) ii. shares a boundary with at least one other parcel described under paragraph (a) ii.
 - c. Each of the proposed nonfarm residences will meet all of the standards under sub. F.2., Nonfarm Residences, when all of the proposed nonfarm residences have come into existence.
 - d. The conditional use permit prohibits all of the following:
 - i. Any further division of any parcel described in paragraph (a) ii.

- ii. Any nonfarm residence or dwelling unit on a parcel identified in paragraph (a) i., other than a nonfarm residence or dwelling unit identified in the permit.
- 4. Agricultural and accessory uses on farms. The Town Board may issue a conditional use permit for any of the following agricultural uses or accessory uses for which a permit is required under paragraph E (1):
 - a. A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.
 - b. An on-farm riding stable and/or boarding facility subject to the provisions of sec. 91.01(1) (d), Wis. Stats;
 - c. A large on-farm fuel or agrichemical storage facility subject to the provisions of sec. 91.01(1) (d), Wis. Stats;
- 5. Agriculture-related uses. The Town Board may issue a conditional use permit for an agriculture-related use if all of the following apply:
 - a. The use supports agricultural uses in the agricultural zoning district in direct and significant ways, and is more suited to the agricultural zoning district than to an industrial or commercial zoning district.
 - b. The use and its location in the agricultural zoning district are consistent with the purposes of the agricultural zoning district.
 - c. The use and its location in the agricultural zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - d. The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
 - e. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - f. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- 6. Compatible infrastructure.
 - a. The Town Board may issue a conditional use permit for any of the following uses if that use meets applicable conditions under paragraph (b):
 - i. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
 - ii. Communication uses, including transmission lines, cell towers, antennae and broadcast towers.
 - iii. Oil, gas and other pipelines.
 - iv. Electrical transmission lines.
 - v. Wind turbines.
 - vi. Solar power generation facilities.

- vii. Storm water drainage facilities.
- b. The Town Board may issue a conditional use permit for a proposed use under paragraph (a) if all of the following apply:
 - i. The use and its location in the agricultural zoning district are consistent with the purposes of the agricultural zoning district.
 - ii. The use and its location in the agricultural zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - iii. 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.
 - iv. The use does not substantially impair or limit the current or future agricultural use of other protected farmland
 - v. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- 7. Government and nonprofit community uses. The Town Board may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the town board determines that all of the following apply:
 - a. The use and its location in the agricultural zoning district are consistent with the purposes of the agricultural zoning district.
 - b. The use and its location in the agricultural zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize 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 other protected farmland.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- 8. Nonmetallic mineral extraction. The Town Board may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:
 - a. The operation complies with all of the following:
 - i. The Town Nonmetallic Mining Ordinance.
 - ii. Reclamation laws pursuant to Subchapter I of ch. 295, Wis. Stats., Administrative Code NR 135, and any other rules promulgated under that subchapter, as amended.
 - iii. Applicable provisions of Pepin County ordinances.
 - iv. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
 - b. The operation and its location in the agricultural zoning district are consistent with the purposes of the agricultural zoning district.

- c. The operation and its location in the agricultural zoning district are reasonable and appropriate, considering alternative locations outside the agricultural zoning 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 other protected farmland.
- f. The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.

G. Rezoning land out of the agricultural zoning district.

- 1. Except as provided in sub. (2), the Town Board may not rezone land out of the agricultural zoning district unless the Town Board does all of the following prior to the rezoning, and finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the agricultural zoning district.
 - b. The rezoning is consistent with any comprehensive plan, adopted by the town board, which is in effect at the time of rezoning.
 - c. The rezoning is substantially consistent with the Pepin County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- 2. Subsection (1) does not apply to any of the following:
 - a. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
 - b. A rezoning that makes the agricultural zoning ordinance map more consistent with the Pepin County farmland preservation plan map, certified under Chapter 91, Wis. Stats., which is in effect at the time of the rezoning.

Section V: Conditional Uses.

Certain uses and situations are of such special nature or their effect is so dependent upon actual contemporary circumstances as to make impractical the determination, in advance, of permissibility. Provision has been made in this Ordinance for the determination of such cases by the Town Board as conditional uses. Conditional uses shall only be granted subject to the following provisions:

A. General standards.

- 1. No grant of a conditional use shall violate the spirit or general intent of this zoning ordinance.

2. No conditional use shall be allowed which would be contrary to the public health, safety or general welfare, or would be substantially adverse to property values in the neighborhood affected.
3. No conditional use shall be permitted that would constitute a nuisance by reason of noise, dust, smoke, odor or other similar factors, or which would create a nuisance under Chapters 66 or 823, Wis. Stats.

B. General procedure. Applications for conditional uses shall be processed in this manner:

1. Prior to filing an application and paying any fees, the applicant is encouraged, but not required to discuss the proposed use with the Zoning Administrator.
2. Applications. Application for any use listed in this Ordinance as a conditional use must be made to the Town by the owner(s) of the property on forms furnished by the Building Inspector, Zoning Administrator or Town Clerk. Conditional use permit applications can include single parcels of land or grouping of parcels contiguous or noncontiguous. A fee as set from time to time by resolution of the Town Board, plus costs of publication payable to the Town shall accompany the application. The Town shall also require all other reasonable expenses associated with the request be paid by the applicant, including but not limited to town's attorney fee and engineering costs.
3. Upon receipt of a completed application and fee, the Town Clerk shall forward the application to the Zoning Administrator for initial review. The Zoning Administrator shall confer with the Clerk and set a date a review by the Land Use/Zoning Committee. The Land Use/Zoning Committee shall make a recommendation for or against the proposed conditional use and forward their recommendation to the Town Board.
4. There shall be a public hearing on the application. The public hearing may be heard by the Land Use/Zoning Committee at its initial meeting, or by the Town Board. Notice of such public hearing specifying the time, place and matters to come before the board shall be published as a Class 1 notice under Chapter 985 of the Wisconsin Statutes and by giving notice by mail to all adjacent property owners.
5. After the public hearing, the Town Board shall deliberate the matter. The Town Board may decide the matter at that meeting, ask for additional information from the applicant, or adjourn to another date for any reason.
6. Determination in writing. The conditions of approval or reasons for disapproval shall be stated in writing by the Town Board and made a permanent part of the minutes and furnished to the applicant.
7. The Town may set any conditions on the conditional use it determines are in the best interest of the public health, safety and welfare.
8. Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted, and such grant shall be applicable solely to the structures, use and property so described. The Town may record a conditional use permit with the register of deeds.
9. Termination. Where a conditional use does not continue in conformity with the conditions of the original approval, the conditional use shall be terminated by action of the Town Board, preceded by a public hearing and notice to affected parties.
10. Time to act upon application. The Board shall act on an application in the manner

above described within 40 days of receiving the application, but if additional information is required by the Board, the Board's decision may be further deferred until after receipt of such information.

- C. Request for additional information.** Before passing upon an application for a conditional use, the Town Board may require the applicant to furnish further relevant information. The requirement may be for specific points of information as described in this section, or it may be to have the required information compiled in the format of an environmental impact statement on questions on which it requires research and data.
- D. Conditions.** The Board may make the granting of an application for a conditional use contingent upon such express conditions as it considers necessary to further the aims of this Ordinance. These conditions may include, but are not limited to, specifications of:
1. The hours of the day or other period of time in which all or part of the use may be permitted.
 2. The life of the permit may be limited by time or by a sunset clause based upon a condition or conditions.
 3. Increased setback and yard dimensions, or limits on height of buildings or structures.
 4. Specified sewerage disposal and water supply facilities.
 5. Landscaping and planting screens.
 6. Owner or operator control (if original applicant wishes to transfer ownership or control over the conditional use).
 7. Financial assurances in the form of bond or other assurance acceptable to the Town Board.
 8. Deed restrictions.
 9. Location of docks, piers or other structures, signs, etc.
 10. Location and amount of parking facilities.
 11. Type of construction.
 12. Type of shore cover.
- E. Reviews and appeals.** Any person or persons aggrieved by a decision of the Town Board as relates to a determination of a conditional use application may, within 30 days after the filing of the decision in the office of the Town Clerk, commence an action seeking the remedy available by certiorari.

Section VI: Nonconforming Uses, Structures and Lots.

- A. Purpose and Intent.** Under a policy sometimes known as “grandfathering,” certain lawful uses, structures and lots which were in existence at the time this Ordinance was enacted may not be permitted under the terms of this Ordinance, and will be considered legal nonconforming uses pursuant to this Section VI. It is the purpose and intent of this Section to comply with state law protecting nonconforming uses and structures as the law requires. A use which was not lawful at the time this Ordinance was enacted does not gain legal nonconforming status.

B. Nonconforming Uses.

1. The continued lawful use of a building, premises, structure or fixture existing on the effective date of this Ordinance or on any later amendment to this Ordinance that makes the previously lawful use nonconforming may not be prohibited (except as described below), even though the use does not conform to the provisions of this Ordinance. Nonconforming uses shall not be extended, enlarged or expanded except as provided for in this Section.
2. Otherwise legal uses of land in the Town on the effective date of this Ordinance shall be treated as non-conforming uses to the extent that the existing use is not a fully permitted use in the zoning district in which the use is located on the Town's Official Zoning Map. Landowners with nonconforming use rights can also seek conditional use permits under this Ordinance to more fully protect their use rights where the use is otherwise eligible for such a permit.
3. Nonconforming uses shall not be extended. The total structural repairs or alterations to a building, premises, structure or fixture that supports a non-conforming use shall not, during its life, exceed 50% of the assessed value of the said building, premises, structure or fixture unless permanently changed to a conforming use.
4. Legal nonconforming uses run with the land. However, if a nonconforming use is discontinued for a period of twelve months, any future use of the building, premises, structure or fixture shall conform to this Ordinance.
5. The illegal expansion of a nonconforming use invalidates the legal nonconforming use as well as the illegal expansion.

C. Nonconforming Structures.

1. Except as set forth in Subsection D (below), the restoration of a damaged or destroyed nonconforming structure to the size, location and use that it had immediately before such damage or destruction occurred is permitted in only situations where the damage or destruction is caused by violent wind, vandalism, fire, flood, snow, mold or infestation. Such a restored nonconforming structure may be larger than the size it was immediately before it was damaged or destroyed only to the extent necessary to comply with applicable state or federal regulations.
2. Structures with a footprint in the setback area of lots that otherwise conform to the area or spatial requirements in effect when the lots was created can be removed, replaced, repaired, maintained, renovated and remodeled.

D. Nonconforming Lots.

1. Structures located on nonconforming lots where the structure is also nonconforming can be removed, replaced, repaired, maintained, renovated and remodeled. The structure's footprint may expand as a result, so long as the expanded footprint encroaches no further into the public road right of way area, side or rear setbacks, and the resulting structure's appearance will be neither inconsistent with, nor atypical of, similarly purposed and existing structures in the neighborhood, and consistent with any measure of nonconformity of such other structures.
2. Structures with a footprint on the effective date of this Ordinance located in the setback area of a lot and that conformed to the area or spatial requirements in effect when the

lot was created can be removed, replaced, repaired, maintained, renovated and remodeled. The structure's footprint may expand as a result, so long as the expanded footprint encroaches no further into the public road right of way area, side or rear setbacks and the resulting structure's appearance will be neither inconsistent with, nor atypical of, similarly purposed and existing structures in the neighborhood, and consistent with any measure of nonconformity of such other structures.

Section VII: Board of Appeals and Variances.

A. Board of Appeals. The Board of Appeals is hereby established in accordance with §§60.62, 61.35 and 62.23, Wis. Stats.

1. The Board shall consist of five (5) members and two (2) alternates who shall be appointed by the Town Chairperson, subject to confirmation of the Town Board.
2. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the Town Chair for cause upon written charges and after public hearing. The Town Chair shall designate one of the members Chair of the Board of Appeals. The Town Clerk shall serve as Secretary of the Board.
3. The term of office of the members of the Board shall be for three (3) calendar years, with no more than two terms expiring the same year. The term of the alternate shall be for staggered terms of three (3) years. Annually, the Town Chair shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The Board of Appeals shall have the duties, responsibilities and authority, and shall follow the procedures set out by the Wisconsin Statutes.
4. The Board of Appeals shall adopt rules for its government and procedure, in writing or by vote at a meeting. Meetings of the Board of Appeals shall be held at the call of the Board of Appeals Chair or, in his or her absence, the acting Chair may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
5. The Board of Appeals shall keep minutes of its proceedings showing the vote of each question or, if a member is absent or fails to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Town Clerk and shall be a public record.

B. Appeals. Appeals to the Board of Appeals may be taken by any person, including a Town official, with a grievance who is affected by any zoning decision of Town officials (but this provision may not be used to appeal decisions of the full Town Board).

1. Appeals shall be made within 30 days of a decision having been made by such Town official.
2. The person wishing to appeal shall submit their appeal in writing to the Town Clerk. The written appeal shall include evidence, if any, and the basis and reasoning of their appeal. The written appeal shall include an address and phone number where the person can be reached.

3. Once an appeal is made to the Board of Appeals by submitting the written appeal to the Town clerk, the Town Clerk will transmit all written records that pertain to the decision to the Board of Appeals.
4. The Town Clerk shall schedule the Board of Appeals meeting to hear appeals within 30 days of a receipt of the written appeal request, or as soon as possible based on availability of the Board of Appeals members. The public shall be notified of the date, location and topic of the appeal by notice published or posted under Chapter 985, Wis. Stats. The person desiring the appeal shall be given written notice of the date of the hearing, either in person or sent by first class U.S. Mail to the address specified by the person in their appeal document.
5. A decision to allow or disallow an appeal shall be made, and written findings shall be given to the individual who files the appeal, within 30 days from the date of hearing.

C. Powers of the Board of Appeals.

1. To hear and decide any written appeals where it is alleged there is error in any zoning related order, requirement, decision, or determination made by a Town official in the enforcement of this Ordinance (but not to hear and decide decisions of the Town Board).
2. To authorize upon appeal in the specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest owing to special conditions a literal enforcement will result in practical difficulty or unnecessary hardship. The spirit of the Ordinance shall be observed, public health, safety and welfare must be secured and substantial justice be done. Applications for variances shall be submitted to the Town Clerk by the owner(s) of the property, who shall call a Board of Appeals meeting as soon as practicable.
3. The Board of Appeals shall distinguish between area variances and use variances, and apply the appropriate standards for the type of variance which is sought by the applicant.

D. Decisions.

1. **Appeals.** In exercising the above mentioned powers the Board of Appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The Board of Appeals may make such order, requirement, decision or determination as ought to be made. To that end, the Board of Appeals shall have all the powers of the Town official from whom the appeal is taken, and may issue or direct the issue of a permit. The Board of Appeals shall issue its decision in writing, with a copy to the Town Clerk and a copy to the applicant.
2. **Variances.** A decision to grant a variance is a decision to permit that which is otherwise prohibited by this Ordinance. The Board must find that an unnecessary hardship exists, that there are unique physical property limitations, and that there would be no harm to the public interest by granting the variance. The Board of Appeals shall issue its decision in writing, with a copy to the Town Clerk and a copy to the applicant.

Section VIII: Amendments and Rezoning.

- A. Amendment.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may make amendments to the text or map of this zoning ordinance, by following the applicable procedures in this Section VIII.
- B. Initiation.** A change or amendment may be initiated by the Town Board, Town Land Use/Zoning Committee, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- C. Petitions.** Petitions by owners or lessees for any change to the district boundaries or amendment to the regulations shall be filed with the Town Clerk and must include the following:
1. Describe the premises/parcel(s) to be rezoned, or the regulations to be amended.
 2. List the reasons justifying the petition.
 3. Specify the proposed use.
 4. Be accompanied by a fee as set from time to time by resolution of the Town Board, plus costs of publication, payable to the Town of Waterville.
 5. Pay as required by the Town Board all other reasonable expenses associated with the request, including but not limited to Town attorney fees and engineering costs.
- D. Petitions for Rezone.** If such petition requests a change in district boundaries (rezone), it shall have attached the following:
1. Plot plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
 2. Owner's names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
 3. Additional information required by the Town Land Use/Zoning Committee or Town Board.
- E. Recommendations.** The Town Land Use/Zoning Committee shall review all proposed changes and amendments and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made at a public meeting and shall be submitted in writing to the Town Board.
- F. Hearings and Notice.** The Town Board shall hold a public hearing upon each favorable recommendation and may hold a hearing on other recommendations, giving at least 10 days' prior notice by Class 2 publication (at least two times in newspapers of general circulation in the Town) during the preceding 30 days, listing the time, place, and then changes or amendments proposed. No amendment may be adopted without a notice and hearing. If the recommendation is for a change in district boundaries, the Town Board shall also give written notice by mail to the owners of all land proposed to be rezoned and land within 200 feet thereof.
- G. Town Board action.** Following such hearing and after careful consideration of the Town Land Use/Zoning Committee's recommendations, the Town Board shall vote on the

passage of the proposed change or amendment.

- H. Protest.** In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20% or more either of the areas of land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by favorable vote of 3/4 of those Town Board members voting.

Section IX: Penalties and Enforcement.

Penalties and Enforcement: Any premises used or building hereinafter erected, moved or structurally altered or any use hereinafter established in violation of the provisions of this Ordinance by any property owner or tenant (whether an individual or an entity, and including the owner or tenant's contractors, or agents) shall be deemed an unlawful structure or use. Prior to any enforcement action, except in the case of an emergency, the Town Board shall give written notice to owner of the property, describing the violation, and giving a reasonable time to comply with the ordinance. After such notice and such reasonable time, the Town Board may direct the Town Attorney to bring an action to enjoin, remove or vacate any use, erection, moving or structural alteration of any building or use in violation of this Ordinance. Any person who violates this Ordinance shall be subject to forfeitures as described in the Town Fee Schedule, and each day a violation remains is deemed a separate violation.

Section X: Administration.

A. Zoning Officials.

1. **Land Use/Zoning Committee.** The Town Land Use/Zoning Committee is the name given to the Town plan commission, and shall have all of the duties and power of a statutory plan commission except where modified by this Ordinance.
2. **Zoning Administrator.** The Town Board shall designate a Zoning Administrator whose role is to handle basic administration of this Ordinance. The Town Board may appoint any person it deems appropriate to be the Zoning Administrator, including a Town Board member, a Land Use/Zoning Committee member, or may contract with an outside person or agency to act as the Zoning Administrator.

Duties include, but are not limited to the following.

- a. Responding to inquiries concerning this Ordinance;
- b. Initial review and consultation with applicants regarding requests for rezoning or conditional uses;
- c. Ensuring procedures are followed pertaining to rezoning, conditional uses and variances;
- d. Recommending possible amendments to the Ordinance;
- e. Investigating and coordinating enforcement of possible violations of the Ordinance;

f. Other basic administrative tasks required to administer the Ordinance.

B. Administrative Fees. Application, review and related fees shall be established by separate resolution enacted from time to time by the Town Board for, but not limited to, the following categories of activities, functions and permits:

1. Board of Appeals Variance - First request
2. Board of Appeals Variance - Second request
3. Conditional Use Permit
4. Zoning Amendments (e.g. rezoning)

C. Professional Fees. Ordinance amendments including rezoning, and other zoning administrative actions such as consideration of conditional use permits may require the Town to secure the advice of the Town Engineer, Town Attorney or other consultants. The applicant shall pay the reasonable costs that the Town incurs due to the application. Financial assurance such as a deposit or bond may be required, prior to the Town taking action on such a request.

Section XI: General Provisions.

A. Severability.

1. Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.
2. If any application of this ordinance to a particular use or premises is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment is not applicable to uses and premises not specifically included in said judgment.

B. Interpretation; non Abrogation.

1. The provisions of this ordinance shall be liberally construed in favor of the protection of the health, safety and welfare of the public, and of the Town of Waterville, and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town.
2. This ordinance is not intended to repeal, nullify or interfere with any previously existing easements, covenants, deed restrictions or agreements which were recorded with the register of deeds prior to its effective date.

C. Effective Date. Following passage by the Town Board, this ordinance shall take effect the day after the date of posting or publication as provided by Wis. Stat. § 60.80(2) and (3).

ADOPTED this 22nd day of February, 2017.

Dennis Milliren
Dennis Milliren, Town Chair

Attest:

Diane Hoyt
Diane Hoyt, Town Clerk