

## Chapter 360

### ZONING

**[HISTORY: Adopted by the Town Board of the Town of Erin 8-28-1989; as amended through 9-21-1992. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning Review/Smart Growth Committee — See Ch. 10, Art. II.  
Citations — See Ch. 17.  
Zoning Administrator — See Ch. 90, Art. II.  
Dog and horse boarding — See Ch. 145, Art. I.  
Building construction — See Ch. 162.  
Fire prevention — See Ch. 196.  
Housing standards and property maintenance — See Ch. 214.  
Land division and subdivision development — See Ch. 235.  
Mobile homes and mobile home parks — See Ch. 248.  
Quarries and landfills — See Ch. 276.

#### ARTICLE I Introduction

##### **§ 360-1. Title.**

This chapter shall be known as the "Town of Erin Zoning Ordinance."

##### **§ 360-2. Applicability.**

This chapter applies to all lands located within the Town of Erin.

##### **§ 360-3. Compliance.**

The use of any land; the size, shape, and placement of lots; the use, occupancy, size, and location of structures and equipment; and all other matters dealt with within this chapter shall be in full compliance with the terms of this chapter and other applicable regulations. It shall be unlawful for a use, structure, or occupancy to occur in noncompliance with the terms of this chapter and other applicable regulations.

##### **§ 360-4. General intent.**

The intent of this chapter is to contribute to the betterment of the community for the benefit of persons who reside in the community. This chapter intends to promote the public health, safety, and welfare, to promote orderly development in all districts, and to maintain and improve the quality of the community.

##### **§ 360-5. Interpretation.**

- A. Relationship of zoning to plan documents. The Land Use Plan and any other plan or components of Town development guidelines shall be guides to interpretation of

this chapter. Wherever possible, interpretation decisions rendered under this chapter shall harmonize zoning regulation decisions with plans and other plan implementation regulations.

- B. Wherever possible, this chapter and Chapter 235, Land Division and Subdivision Development, shall be harmonized and shall be interpreted so as to reinforce enforcement of each.
- C. Rules of language construction. The language set forth in the text of this chapter shall be interpreted in accord with the following rules of construction:
  - (1) The singular includes the plural, and the plural is singular.
  - (2) The present tense includes the past and future tenses, and the future the present.
  - (3) The word "shall" is mandatory, and the word "may" is permissive.
  - (4) The masculine gender includes the feminine and neuter genders.
  - (5) Whenever a word or term defined appears in the text of this chapter, its meaning shall be as stated in such definition.
- D. Liberal interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- E. Conflicting regulations. Where the standards of this chapter are either more restrictive or less restrictive than standards imposed by any other laws, ordinances, statutes, resolutions, or regulations, the regulation that is more restrictive or that imposes higher standards or requirements shall prevail.
- F. Classification of uses. In each zoning district, there are uses which are permitted uses and uses which are conditional uses.
  - (1) Permitted uses. Permitted uses of land or buildings shall be restricted to the districts indicated and under the conditions specified.
    - (a) No building or tract of land shall be devoted to any use other than a use permitted in the zoning district in which such building or tract of land is located, with the following exceptions:
      - [1] Uses lawfully established on the effective date of this chapter; and
      - [2] Conditional uses allowed in accordance with the provisions of Article VIII.
    - (b) Uses lawfully established on the effective date of this chapter and rendered nonconforming by the provisions thereof shall be subject to those regulations of § 360-9 governing nonconforming uses.
  - (2) Conditional uses. Conditional uses may be allowed in the districts indicated, subject to the issuance of conditional use permits in accordance with the

provisions of Article VIII.

(3) The term "allowable uses" in this chapter refers to both permitted and conditional uses.

G. Uses not classified. When a use is not specifically provided for in this chapter, the Plan Commission or a property owner may request a study by the Plan Commission to determine whether the proposed use is compatible with the Land Use Plan, what zoning district would be appropriate, and a determination as to conditions and standards relating to such use. The Town Board may, upon receipt of the study, initiate an amendment to this chapter to provide for the particular use under consideration, or find that the use is not compatible in the particular location.

### **§ 360-6. Definitions.**

For the purposes of this chapter, the following definitions shall be used:

**ACCESSORY USE OR STRUCTURE** — See § 360-16, Accessory structures and uses.<sup>1</sup>

**AGRICULTURE** — Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain; boarding or training; grass, mint and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 383 to 3836; participating in the milk production termination program under 7 USC 1446 (d); vegetable raising; and all other land which is otherwise not in active economic use.

**AIRPORT** — Any area of land which is used or intended for the landing and takeoff of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including taxiways, aircraft storage and tie-down areas, hangars, and other related buildings and open spaces.

**ALLEY** — A special public right-of-way affording only secondary access to abutting properties.

**BOARD** — Unless otherwise noted specifically, "Board" means Town Board of Erin.

**BOATHOUSE** — A permanent accessory structure designed and used solely for the purpose of protecting or storing boats for noncommercial purposes.

**BUILDABLE AREA** — The specified portion of a lot which meets all of the yard and setback requirements of this chapter and other applicable ordinances and regulations.

**BUILDABLE LAND** — For the purposes of this chapter, buildable land is that land which is included in calculations for net density, meaning 33 1/3% of land mapped as DNR wetland and 100% of all other land within a particular parcel.

**BUILDING** — Any structure which has a supported roof intended for shelter or

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

enclosure.

**BUILDING HEIGHT** — The vertical distance, measured from the mean elevation of the finished grade along the front of the building to the highest point on the roof for flat roofs; to the mean height level between the eaves and the ridge for gable and hip roofs; to the deckline for mansard roofs.

**BUILDING, PRINCIPAL** — The building on the lot intended for primary use as permitted by the regulations of the zone in which it is located.

**BUILDING SETBACK LINE** — A line measured across the width of the lot at that point where the main structure, including any overhang, is in accordance with setback provisions.

**BUS SHELTER** — A small, roofed structure, located near a street, and designed primarily for the protection and convenience of bus passengers. Cars, trucks or other vehicles shall not be used as bus shelters. Maximum size shall be 36 square feet. Bus shelters shall not exceed 10 feet in height; shall not overhang into any right-of-way; and shall not be closer than 25 feet to any side yard lot line. Bus shelters shall be removed when they are no longer in use. Signage is not permitted on bus shelters.

**CONDITIONAL USES** — Certain land uses, which are specifically mentioned in this chapter, which may have impacts dependent upon specific circumstances. Conditional uses as specified in this chapter require issuance of conditional use permits approved by the Plan Commission.

**CORNER LOT** — A lot abutting two or more streets at their intersection. Every yard abutting a street shall be considered a front yard for purposes of determining setbacks.

**CRITICAL WATERSHED** — A watershed in which more than 75% of the soil types are classified by the Soil Conservation Service as having severe limitations for septic tank absorption fields (as depicted on the Critical Watershed Map in the Town of Erin Land Use Plan).

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.

**DWELLING** — A detached building designed or used exclusively as a long-term residence or sleeping place, but does not include transient occupancy, such as hotels, motels, boardinghouses, or bed-and-breakfast establishments. See also "residence."

**DWELLING, SINGLE-FAMILY** — A residential building containing only one dwelling unit but may include one mother-in-law suite. Mother-in-law suite means one or more rooms within a single-family dwelling designed, occupied, or intended to be occupied by one or more members of a family and designed, occupied, or intended to be occupied separately and exclusively as a separate dwelling unit. Mother-in-law suites are only allowed by conditional use permit, and must be updated annually.

DWELLING UNIT — A building or portion thereof with rooms arranged, designed, used or intended to be used for one family. For enforcement purposes, guest houses with kitchen and bathroom facilities are considered dwelling units.

ENVIRONMENTAL CORRIDORS — Environmental corridors contain the highest value of woodlands, wetlands, and wildlife areas; all of the area's major bodies of surface waters, undeveloped shorelands, and floodlands; important recharge areas for groundwater aquifers; and existing and potential park sites, as well as areas of scenic, historic, and cultural value (as depicted on the most current Southeastern Wisconsin Regional Planning Commission environmental corridors maps and as defined by same). Changes or updates of environmental corridor maps shall be promptly reflected in the Official Zoning Maps.

FAMILY — One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants. A number of persons living together as a single housekeeping unit, although not related by blood, adoption or marriage, shall be deemed to constitute a "family." A boardinghouse shall not be considered a "family."<sup>2</sup>

FARM DWELLING — A dwelling which is occupied by a person who, or a family at least one member of which, earns a substantial part of his or her livelihood from farm operations on the parcel, or is a parent or child of the operator of the farm.

FEEDLOT — A lot or facility used or proposed to be used for the confined feeding and/or holding of animals where the number and kind of animals exceed 25 per acre. The acreage used to compute the density of animals shall include all fenced pens, yards, or similar uncovered structures, and all covered enclosures in which animals are enclosed for all, or 30 or more continuous, days per year on a twenty-four-hour-per-day basis, and shall not include lands used for the growing of crops, vegetative cover, or pasture.

FENCE — Any open or closed barrier made of masonry, metal, wood, or plant materials for the purpose of enclosing any part of a lot or parcel of land.

FLAG LOT — A lot not fronting on or abutting a public road, and where access to the public road is by narrow, private right-of-way. ~~The creation of flag lots in new subdivisions shall be prohibited after September 21, 1992, and shall be a conditional use in other circumstances.~~ Flag lots shall only be allowed by conditional use.

- Determination Yards of a Flag Lot: At the time of land division review for a flag lot creation, the yards shall be determined by the Plan Commission and recorded on the survey instrument.
- The Front Yard of a flag lot is measured from the lot line that is most parallel and closest to the street, excluding the pole portion of the flag lot. If this standard is not practicable due to, topography, lot configuration, or similar reasons, then the front yard will be measured from a property line that abuts the access portion of the flag or easement.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- Flag Lot Width: Lot width shall be measured by a line connecting two points on opposite side yard property lines, that will result in a line parallel to the front yard.
- Flag Lot Depth: The lot depth shall be measured at the mid-point of the front and rear property lines of the "flag".
- Flag Lot size: Area of access easement or flagpole shall be deducted from the gross acreage of the flag lot. The "flag" portion of the lot shall be equal to or exceed the square footage of the underlying zone.

**FLOOR AREA** - The sum of the horizontal areas of the floors, measured from the interior faces of the exterior walls. Floor area shall include all levels of buildings, including interior balconies and mezzanines, finished basements, garages, elevator shafts, stairwells at each story, floor space used for mechanical equipment with structural headroom of 7.5' or more, penthouses, and usable attic space providing a structural headroom of 7.5 feet or more. In residential properties, exterior porches, decks, unenclosed breezeways, balconies, unfinished basements and attics, unenclosed carports, and parking areas are not considered part of the gross floor area. In commercial properties, unfinished basement and attic areas not used for product storage, warehousing, or for operations of the business may be excluded from the floor area calculations.

**FRONTAGE** — That side of a lot abutting on a street and ordinarily regarded as the front of the lot.

**FRONTAGE STREET** — A street generally contiguous and generally parallel to a restricted access traffic artery and affording vehicular access between such artery and private lands.

**GARAGE** — A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by residents thereof, and which is not a separate commercial enterprise.

**GROUP HOME** — Community living arrangements under § 46.03(22), Wis. Stats., including those child welfare agencies, group homes for children, and community-based residential facilities identified therein. Group homes shall meet all lot size, parking, and similar requirements of the district they are located within.

**IMPERVIOUS SURFACE** — Any surface which prevents water from entering the ground, such as concrete, bituminous pavement.

**KENNEL** — Any establishment where or whereon four or more dogs are kept for the purpose of breeding, boarding, training, sale, or sporting purposes.

**LAND USE** — A broad term used to classify land according to present use and according to the suitability for future uses; that is, for housing, open spaces and parks, commercial, industrial, etc.

**LIVESTOCK** — An animal typically kept for breeding, production or agricultural products, and/or sale or pleasure, including, but not limited to any horse, bovine, bison,

sheep, goat, pig, llama, alpaca, domestic rabbit, farm-raised deer, as defined in WI st. 95.001 (1)(ag), or domestic fowl, including any farm-raised game bird, as defined in WI st. 169.01(12m).

**LIVESTOCK UNIT** — The equivalent to one of the following (*animals not listed to be categorized by Zoning Administrator*):

- i. One cow or steer
- ii. One horse
- iii. Two pigs or hogs
- iv. Two sheep, goats, or llamas
- v. Two ostrich or emu
- vi. Five fowl

**LOADING AREA** — A complete off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

**LOT** — A parcel, piece or portion of land, defined by metes and bounds, certified survey, recorded land subdivision plat, or other means; and separated from other lots, parcels, or similar units by such description; and where applicable, having its principal frontage upon a street, road, or waterway.

**LOT AREA** — The area of a lot as defined herein bounded by lot lines exclusive of land provided for public rights-of-way, public streams, or other public bodies of water.

**LOT AREA COVERAGE** — The area of a lot that consists of impervious surface in relation to total lot area.

**LOT DEPTH** — The average horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

**LOT LINES** — A property boundary line of any land parcel held in single or separate ownership; except where any portion of the property boundary line extends into the abutting street or alley, the property boundary line shall be deemed to be the street or alley right-of-way line.

**LOT, THROUGH** — A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a "through lot" both street lines shall be deemed front lot lines.

**LOT, WIDTH** — The average horizontal distance between the side lot line of a lot measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area at right angle to the length.

**MOTHER-IN-LAW SUITE** — See Single-Family Dwelling.

**NET DENSITY** — The maximum number of dwelling units allowed to be built per parcel. Net density is computed on the basis of landownership and acreage of contiguous lands under single ownership. For example, if the net density for an area of the Town is one dwelling unit per 10 acres, and an individual owns a one-hundred-twenty-acre parcel of land, the allowable net density standard would allow 12 units on those 120 acres of

land. Department of Natural Resources mapped wetlands are included in net density calculations at a rate of 33.3%. Therefore, if a one-hundred-twenty-acre parcel of land includes 20 acres of wetlands, the net density calculation would be based upon 106.6 acres of land ( $20 \times 0.333 = 6.6 + 100 = 106.6$ ).

**NONCONFORMING BUSINESS OR INDUSTRY** — Any business lawfully conducted on a premises at the time of the effective date of this chapter or amendment, which does not conform to the regulations in this chapter.

**NONCONFORMING DWELLING** — Any dwelling lawfully occupied at the time of the effective date of this chapter or amendments, which does not conform to the regulations in this chapter.

**NONCONFORMING LOT** — Any lot created and recorded prior to the effective date of this chapter or amendment, which does not conform to the size or lot dimension requirements in this chapter.

**NONCONFORMING USE AND STRUCTURE** — The lawful use of a building, structure or property which existed at the time this chapter (or an applicable amendment to this chapter) took effect, and which is not in conformity with the provisions of this chapter.

**PARCEL** — See LOT

**PARCEL, ORIGINAL** — A parcel as it existed as of the adoption date of this chapter.

**PARCEL, SUBSTANDARD** — A parcel which is deficient in lot size, according to the minimum lot size requirements of this chapter.

**PRIVATE DRIVE** — A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure, and serving only a single parcel.

**PRIVATE ROAD** — A private roadway connecting and providing for access for two through four parcels.

**PROFESSIONAL OFFICE** — The office of a doctor, salesman, insurance agent, travel agent, practitioner, dentist, minister, architect, landscape architect, planner, professional engineer, lawyer, author, musician, real estate broker, or other recognized professional.

**PUBLIC OPEN SPACE** — Any publicly owned open area, including but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, parkways, and streets.

**PUBLIC PARK** — See "public open space."

**RECREATIONAL AREA** — Any park, playground, ballfield, ski hill, sport field, swimming pool, riding stable or riding academies, or other facilities and areas constructed for recreational activities and open for use by public or private organizations.

**RESIDENCE** — A dwelling unit occupied on a nontransient basis.

**RIGHT-OF-WAY** — A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, or utility. The usage of the term "right-of-way" for zoning

purposes shall mean every right-of-way hereafter established and shown on a plat or certified survey map, which is separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such lots or parcels.

ROW — See "right-of-way."

SATELLITE DISH ANTENNA — A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or bar configured, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TUROs, and satellite microwave antennas. Satellite dish antennas shall be considered accessory uses and subject to all applicable regulations.

SETBACK LINES — Lines established adjacent to highways, shorelines, and side lot lines for the purpose of defining limits, within which no building or structure or any part thereof shall be erected or permanently maintained. For purposes of enforcement, all measurements are to be taken horizontally.

SITE PLAN — A scaled drawing showing existing and proposed uses and structures for a parcel of land as required by this chapter. All site plans submitted to the Town shall include all structures located on the property and their dimensions, setbacks, distance between structures, proposed erosion control measures, sanitary system location, well location, driveway location, and elevations at house corners, lot corners, road pavement, and lot lines.

SITE PLAN REVIEW — The process by which the Plan Commission and any staff review the site plan of a development to assure that it meets the stated purposes and standards of this chapter and other regulations, provides for the necessary public facilities, such as roads and schools, and protects and preserves desirable features and adjacent properties through the appropriate location of structures and the use of landscaping.

SPECIAL EXCEPTION — (See "conditional uses.")

STRUCTURAL ALTERATION — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roof and exterior wall.

STRUCTURE — Anything erected, the use of which requires a permanent location on the ground. Stairways to the water, signs, billboards or other advertising medium, detached or projecting, shall be construed to be a structure.

STRUCTURE, MINOR — Any small, movable accessory erection or construction, such as birdhouses; toolhouses; pet houses; play equipment; arbors; or walls and fences under four feet in height.

STRUCTURE, PRINCIPAL — The main structure on a parcel.

TEMPORARY USE — Any period of time or use not to exceed 30 consecutive calendar

days within a one-year period.

**UNNECESSARY HARDSHIP** — That circumstance where special conditions which were not self-created affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

**USABLE OPEN SPACE** — That part of the ground level of a lot which is unoccupied by driveways, drive aisles, service drives, off-street parking spaces and/or loading berths, principal buildings, and accessory buildings. This space of minimum prescribed dimension shall be available to all occupants of the building and shall be usable for greenery, drying yards, recreational space, gardening, and other leisure activities normally carried on outdoors. Ground level for this purpose may include open terraces above the average level of the adjoining ground, but may not include a permanently roofed-over terrace or porch.

**UTILITY FACILITIES** — Utility-owned structures not related to the direct delivery of utility service to households or businesses. "Utility facilities" include power-generating plants, electrical utility substations, utility offices, treatment plants, sanitary stations, and sanitary landfills.

**VARIANCE** — An authorization granted by the Board of Adjustment to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

**VISUAL CLEARANCE TRIANGLE** — A space approximately triangular in shape, on a corner lot, in which nothing is permitted to be built, placed, or grown in a way that would impede visibility.

**WETLANDS** — Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which have soils indicative of wet conditions.

**YARD** — An open space on a lot which is unoccupied or unobstructed from its lowest level to the sky. For the purpose of this chapter, a "yard" extends along a lot line and at right angles to such lot line only to a depth or width specified in the yard regulations for the zoning district in which such zoning lot is located.

**YARD, FRONT** — A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a minimum depth required in the yard regulations for the zoning district in which such lot is located. A front yard may be the same as a street yard.

**YARD, REAR** — The yard area of a parcel extending along the full width of the property and measured from the rear property (lot) line to the minimum rear setback line as designated in the district regulations.

**YARD, SHORE** — A yard extending across the full width of the lot, parallel with the existing shoreline.

**YARD, SIDE** — The yard area of a parcel extending along the full length of the property

and measured from the side lot line to the minimum side setback line as described in the district regulations.

**YARD, STREET** — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line, and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards. Restrictions of street yards supercede those of all other yards.

## ARTICLE II General Provisions

### **§ 360-7. Vesting of rights in projects planned under preceding ordinances.**

This section governs situations in which a development or occupancy was planned and/or partially carried out under a preceding ordinance, and is now prohibited or regulated in a substantially more restrictive way by this chapter or amendment. Projects not fully established and operational at the time of ordinance change may be allowed, to be established and operated by vote of the Board of Adjustment on an ordinance variance basis. The burden shall be on the applicant to prove to the Board of Adjustment that:

- A. Under the law at the time of the variance law, as interpreted to the Board of Adjustment by the Town Attorney, the applicant has made enough good faith investment toward the proposed project to have vested rights to continue; and
- B. To enforce the new or amended ordinance strictly would create unnecessary hardship and would not achieve public benefits sufficient to outweigh the hardship. The Board of Adjustment may, in its sound discretion, impose conditions to establish reasonable compromise between old and new standards.

### **§ 360-8. Preexisting substandard parcels.**

Providing that the property complies with all federal, state, county, and Town regulations, every parcel is entitled to the development of at least one residential dwelling unit. Development is never permitted in DNR mapped wetlands or floodplains. This section applies only to preexisting substandard parcels or those which are reduced in lot size in accordance with the requirements of this chapter and do not establish policy or precedent favoring the creation of new substandard lot configurations.

- A. Lots or parcels under 40,000 square feet in size, used or proposed to be placed in a use allowable under this chapter, that are deficient in minimum lot area or minimum lot width may be allowable for such use, subject to Plan Commission approval by the conditional use process, and/or referral to the Board of Adjustment at the discretion of the Plan Commission, if the parcel was of record on the effective date of this chapter in its current size or shape. If applicable, the property owner must also meet the following requirements:
  - (1) If one or more adjoining parcels are owned by the same party, the substandard parcel shall be required to be made standard by combination with the adjoining parcel by movement of parcel boundaries. Before sale, the property

owner shall adjust the boundary lines of all adjoining parcels so that all adjoining parcels come as close as possible to reaching the standards of the zoning district.

- (2) If the deficiency is a lack of required frontage on a public street, or approved private road, an existing substandard parcel may nevertheless be approved if it has either 15 feet of frontage on a public street, or approved private road or (for residential parcels) effective and workable (easement) access to a public street or approved private road by means of a recorded easement.
- (3) An existing substandard parcel may be allowable as a site for a residential dwelling structure if it has at least 40 feet of lot width at the building line, and the lot meets state and county mandated sanitary requirements, and has effective and workable easement access to a public street.

B. Parcels in the Agricultural Zoning District.

- (1) Parcels with acreage below that of 35 shall be considered conforming as to lot size, if that size is the result of land division subsequent to the adoption date of this chapter in a procedure which conforms to § 360-35.
- (2) For any farm operation existing as of the adoption date of this chapter, within the Agricultural Zoning District, any structure shall not be considered a nonconforming structure if it was in compliance with the existing Zoning Ordinance as of the adoption date of this chapter.

C. Parcels in the Residential and Upland Conservancy Districts.

- (1) Parcels with less acreage than that required by the net density standards found in § 360-35, but greater than that of 40,000 square feet, shall be considered conforming as to lot size and lot width if they were lots of record on the adoption date of this chapter.
- (2) For any residential structure existing as of the adoption date of this chapter, it shall not be considered a nonconforming structure if it was in compliance with the existing Zoning Ordinance as of the adoption date of this chapter.

D. No parcel may be developed unless an on-site sanitary waste permit has been granted by Washington County.

**§ 360-9. Preexisting nonconforming uses and developments.**

- A. The lawful established and operational use of a structure or premises existing on the effective date of this chapter or the effective date of an amendment to this chapter may be continued, although such use does not conform with to provisions of this chapter or the amendment, unless specifically prohibited elsewhere in this chapter.
- B. Nonconforming uses of principal structures, secondary or accessory uses of premises, and structures that are nonconforming as to dimensional requirements (side yard, street yard) may not be expanded, extended, moved, relocated, enlarged,

or repaired unless a variance is granted by the Board of Adjustment, except for repairs after damage by fire, flood, explosion, earthquake, war, riot, or act of God, if the total estimated cost of repair, reconstruction, or alterations does not exceed 50% of the estimated market value of the property or accessory structure, and the Building Inspector's report indicates that the building complies with the applicable Building, Zoning, or Housing Codes.

- (1) The Plan Commission may waive side yard setback requirements for the ability to construct within setback upon an existing foundation that was constructed prior to January 1, 1965, if it can be demonstrated that the project is consistent with the character of the district and will not adversely affect neighboring property values. [Added 6-14-1999]
- C. No additions to nonconforming structures shall be erected, unless a variance is granted by the Board of Adjustment.
  - D. If nonconforming use or the use (conforming or nonconforming) of a structure that is nonconforming as to dimensional requirements is discontinued for a period of 12 months, any future use of the building or premises shall conform to this chapter. This period may be waived by the Board of Adjustment.
  - E. Nonconforming uses may be changed to distinctly different nonconforming uses only with conditional use approval. Conditional use review shall be based on compatibility with prevailing permitted and conditional uses in the area. Changes that will not aggravate disharmony with such permitted or conditional uses may be approved.
  - F. Nonconforming sign regulations are found in § 360-26.

**§ 360-10. Certificate of zoning compliance.**

- A. A certificate of zoning compliance from the Town is required before a building permit is issued. The property owner is responsible for maintaining compliance with all applicable local, state, and federal regulations.
- B. A property owner, before requesting a building permit, shall apply for a certificate of zoning compliance from the Town Clerk. The Clerk, after determining if the application is complete, shall submit the application to the Zoning Administrator. The certificate shall state whether or not the property, and use on or proposed for the property, meets current ordinance standards, and if the property has any remaining dwelling unit development rights, as per § 360-35 of this chapter, allowing creation of new residential dwelling units. The owner shall submit all information required by the Zoning Administrator in order for his determination to be made, including a copy of their deed. Submittal shall include 2 completed zoning permit applications, 2 copies of a survey and site plan signed by Washington County. All site plans must be at an appropriate engineering scale as determined by the Zoning Administrator. Site plans must show all structures located on the property and their dimensions, the distance to the property lines from all structures, the distances between structures, the proposed erosion control measures, the

sanitary system location, the elevations at house corners, lot corners, road pavement, and lot lines; the location of any wells), and the front, side, and rear setbacks per Town code.

- C. A building permit shall not be issued until a certificate of zoning compliance is issued, which states that there are development rights as to dwelling units that remain.<sup>3</sup>
- D. On-site sewage disposal. Development is not allowed unless an on-site waste disposal permit is issued by Washington County, prior to receiving a certificate of zoning compliance.

**§ 360-11. Site restrictions.**

The following site restrictions shall apply:

- A. Location on lot. All principal structures shall be located on a lot and only one principal structure shall be located, erected or moved on a lot.
- B. No building permit shall be approved for a lot created after September 21, 1992, which does not have required direct frontage abutting a public street or approved private road constituting at least 66 feet of frontage on such street or approved private road. A building permit for an existing lot on September 21, 1992, that does not abut a public street or approved private road may be approved if the lot has effective and workable access to a public street by means of a recorded easement for such purpose.
- C. Frontage on full street. No building permit shall be issued for a lot which abuts a public street, which has not been improved to minimum specification (i.e., gravel base) as defined by the Town Engineer and approved by the Town Board.
- D. Reduction of area or dimensions; joint use. No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the requirements of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
- E. Private drives shall not be allowed in situations where more than two abutted flag lots would result. In such cases, a private road shall be required. The determination of abutting shall be based on the sole discretion of the Town Plan Commission. The Town Plan Commission will consider such factors as access by fire, rescue and police vehicles, safe ingress and egress, and aesthetics.
- F. Accessory uses.
  - (1) Eighty percent of the space of a lot, over and above that which is occupied by the principal residential structure, shall be usable open space.
  - (2) Fences. Fences in residential districts cannot exceed six feet in height from grade, and cannot be forward of the front yard of the residence except as

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<sup>3</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

provided below:

- (a) Fences in residential districts in front yards shall be decorative only, 50% of their bulk must be air space and they must be not more than 36 inches in height and in compliance with a vision clearance triangle according to § 360-12.
  - (b) Fences in Industrial Districts cannot exceed eight feet in height and may be constructed of barbed wire, electric wire, or similar materials.
  - (c) Fences must be kept in good repair as determined by the Zoning Administrator, and decorative sides must face outward.
- (3) In all zoning districts, roof-mounted satellite dish antennas up to 12 feet in diameter may be permitted as a conditional use, subject to the following criteria:
- (a) Demonstration by the applicant that compliance with § 360-11 of this chapter would result in the obstruction of the antenna's reception window; furthermore, such obstruction is beyond the control of the applicant.
  - (b) The height of the proposed installation does not exceed the maximum height restrictions imposed upon primary uses in the district.
  - (c) The applicant shall provide a certified statement from a licensed engineer stating that the installation is safe and not a hazard to the occupants of the building or the immediate neighbors.
  - (d) If an appeal is filed with the Board of Adjustment concerning the application of this section in relation to satellite dish antennas, in addition to the standard for variances listed in § 360-71, the Board of Adjustment shall consider if the setback requirements impose unreasonable limitations on, or would prevent, reception of satellite-delivered signals by receive-only antennas that are excessive in light of the purchase and installation cost of the equipment in making its determination.
  - (e) Those criteria for conditional uses (listed in Article VII) shall apply.
- (4) In all zoning districts, ground-mounted satellite dish antennas up to 12 feet in diameter are permitted as accessory uses, subject to the requirements of this section.
- G. Setbacks from all navigable water bodies are governed by the Washington County Shoreland, Wetland and Floodplain Zoning Ordinance. Wetland setbacks are required that are at least equal to the minimum side yard setback of the applicable zoning district, or 25' (per Washington County Shoreland, Wetland and Floodplain Zoning Ordinance), whichever is greater.
- H. Accessory structures in street yards; utility-type accessory structures.

- (1) Accessory structures shall not be located in the street yard(s) of a lot, except by approval through a conditional use permit under Article VII of this chapter. In order for an accessory structure to be approved in the street yard, an applicant must show:
    - (a) There is not other feasible location for the accessory structure; or
    - (b) The principal building on the lot has an extraordinarily deep setback from the street; or
    - (c) The accessory structure will be visually screened from the street(s) and/or adjacent properties by existing or planted deciduous and evergreen trees and shrubs; or
    - (d) A combination of the above.
    - (e) In addition, all reasonably relevant site plan review standards shall be applied.
  - (2) When proposed to be located on parcels 35 acres or smaller, site plan review approval shall be required for construction or establishment of utility-type accessory structures with metal walls on all sides and/or a metal roof with a floor area of 140 square feet or larger and/or construction of more than one utility-type accessory structure, regardless of the size of the structure(s).
- I. Yard requirements. Front, side, and rear yards shall be provided in accordance with the regulations indicated and shall be unobstructed from the ground level to the sky. Architectural projections such as chimneys, eaves, and ornaments may project into the required yard, but such projections shall not exceed two feet.
  - J. Driveways. New driveways installed after the effective date of adoption of this chapter shall be not less than 10 feet from all lot lines. This provision does not apply to replacing an existing driveway.
  - K. Abandoned motor vehicles. The storage of a motor vehicle which is abandoned, junked, or mechanically inoperative and not currently licensed shall be prohibited in agricultural, residential, and commercial districts, unless such vehicle is completely enclosed in a permitted structure, except that in agricultural districts three such vehicles may be kept on a lot in excess of 40 acres.
  - L. General bulk restrictions.

Elevation	With Full Basement		Slab on Grade	
	Minimum 1st Floor Area (square feet)	Minimum Total Area (square feet)	Minimum 1st Floor Area (square feet)	Minimum Total Area (square feet)
One-story	1,200	1,200	1,400	1,400
1 1/2 story	950	1,400	1,150	1,400

2 story	800	1,400	1,000	1,400
Bi-level	800	1,200	NA	NA
Tri-level	800	1,200	NA	NA

- (1) Basement floor area is not calculated in non-split-level homes.
- (2) Split levels require a minimum of 400 square feet of basement, and basement is included in floor area calculation.
- (3) The extra 200 square feet requirement for slab on grade dwellings is for mechanical equipment.<sup>4</sup>

M. Swimming pools. Swimming pools, whether in-ground or aboveground, having a depth greater than three feet or a diameter greater than 12 feet or a surface area greater than 120 square feet may be located in any district permitting residential uses but shall be installed in accordance with the following provisions set forth herein. These requirements apply to constructed swimming pools, not ponds.

- (1) Location. Minimum setback of 10 feet from side and rear lot lines.
- (2) Drains. Pool drains shall be located so no discharge of water from the pool takes place closer than 25 feet from a septic field or drywell, or drain into/over neighbor's property.
- (3) Fences. All in-ground pools shall be completely enclosed with a fence having a minimum height of four feet of nonclimbable fencing material with a locking gate. All aboveground pools with a deck height above four feet at any point are exempt from the fencing requirement, except that all points where a ladder or steps or other means of access to the pool are located must be safeguarded by means of a locking gate. A portion of a building may be used as a portion of the fence, provided the pool is located at least 10 feet from the building.
- (4) Electrical. Swimming pools must be at least 20 feet from any overhead electric power lines. A horizontal clearance of at least 10 feet shall be maintained between service drops or other open overhead wiring and swimming pools, diving structures, observation stands, tower or platforms. Any outlets associated with the pool or related mechanical equipment must be protected by a ground current interrupter. All other applicable state or local electrical code provisions are incorporated herein by reference.

**§ 360-12. Traffic, parking and access.**

A. Intersection visibility requirements.

- (1) At all intersections of streets or alleys, no fence, hedge, wall, sign or other

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

structure shall be erected, placed, planted or allowed to grow in such a manner as to impede more than 10% of the vision area between a height of 2 1/2 feet and 10 feet above the established intersection of streets or alleys in the area bounded by the street lines, and a line joining points along said street lines 150 feet from the point of intersection.

- (2) In the case of major streets and highways, intersecting with other arterial streets or railways, the corner cutoff distances establishing a triangular vision clearance space shall be increased to 250 feet.
- B. Loading requirements. In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering to do so, or unloading, are completely off the public ways, except alleys.
- C. Parking requirements. In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:
- (1) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 10 feet wide for parking areas for less than 10 vehicles and two ten-foot lanes for parking lots for 10 or more vehicles.
  - (2) Size. Each parking space shall be of adequate size to accommodate anticipated mix of vehicles.
  - (3) All parking spaces shall be located on the same lot as the principal use or not over 600 feet from the principal use, except employee parking in the Industrial District.
  - (4) Any lighting used to illuminate off-street parking shall be aimed so as not to directly illuminate any parcel other than that on which the parking is located.
  - (5) Screen of on-grade parking areas. When a required off-street parking area for six cars or more is located within 15 feet of any lot line or a public right-of-way line in any district, screening shall be provided in the form of fences or plantings to a height which is sufficient to block vehicle headlights in the parking area.
  - (6) Landscaped islands shall be required at the ends of parking bays to clearly define drive aisles and turning patterns.
  - (7) Surfacing. All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Hard surface shall be required in commercial and industrial districts. Any parking areas for more than five vehicles shall have the aisles and spaces clearly marked. Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines or required sidewalks.
  - (8) Minimum number of parking stalls required:

**Use**

**Numbers of Stalls**

Single-family dwellings	2 for each dwelling unit
Hotels, motels	1 for each guest room plus 1 for each two employees per working shift
Churches, theaters, community centers, and other places of public assembly	1 for each five seats
Schools	2 for each classroom
Restaurants, bars, places of entertainment	1 for each 200 square feet of floor area
Retail and service, commercial	1 for each 300 square feet of floor area
Manufacturing, processing plants, laboratories, and warehouses	1 for each two employees per working shift
Financial institutions; business, governmental, and professional offices	1 for each 200 square feet of floor area

- (9) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.
- (10) Uses not listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. The Plan Commission shall make the determination.

D. Private roads and drives. Private roads and drives serving flag lots shall be permitted only by conditional use review. Private roads may be permitted where access via a public road is impractical or unplanned, provided they meet all of the standards in the conditional use section of this chapter, as well as the following standards:

- (1) Private roads shall be platted as outlots with access and maintenance provisions being provided in common to all lots served by said road.
- (2) The outlot will be restricted from any other development.
- (3) The minimum width for any private road outlot is 66 feet.
- (4) Private roads and driveways shall be constructed in such a manner and quality as to be accessible to emergency vehicles at all times.
- (5) No more than four lots may be served by a private road. Each lot must be 6.5 acres or more in size. Lots with public road access are not considered against the allowable four lots.
- (6) A single flag lot may be served by a private drive if it is greater than 6.5 acres in size.
- (7) In the approval of a private drive for a flag lot, the building setback shall be at a point determined by the Town Plan Commission.
- (8) The minimum width of a flag lot shall be no less than 66 feet.

**§ 360-13. Home occupations.**

A "home occupation" is any occupation carried on by a member of the immediate family residing on the premises, and limited others as specified below, which meet all of the following conditions:

- A. The occupation is clearly incidental and secondary to the principal use of the premises;
- B. Not more than one person not a member of the resident family shall be employed on the premises for professional offices and artist studios. For all other home occupations, only members of the immediate family residing on the premises may be employed, unless authorized by a conditional use permit;
- C. No stock-in-trade is kept or commodities sold, other than those made on the premises, unless authorized by a conditional use permit;
- D. Samples may be kept but not sold on the premises;
- E. No significant mechanical equipment is used, except that used for purely domestic or household purposes, unless authorized by a conditional use permit (computers, facsimile, and other like devices do not require a conditional use permit);
- F. Such occupation shall not require significant internal or external alterations, or involve construction features not customary in a dwelling, unless a conditional use permit has been issued;
- G. Not more than 25% of the floor area of one story of the dwelling is devoted to such home occupation, including professional offices and artist studios. Use of a detached structure that does not exceed 864 square feet is also permitted.
- H. There is no evidence, other than the signage allowed under § 360-28H, that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

**§ 360-14. Corner lots.**

Every yard abutting a street shall be considered a front yard for purposes of determining setbacks.

**§ 360-15. Condominiums.**

All condominium development requires site plan review by the Plan Commission. The only standard for review shall be to determine if the condominium units achieve parity with the net density standards of § 360-35.

**§ 360-16. Accessory structures and uses.** [Added 6-16-1997]

- A. Applicability.
  - (1) This amendment supersedes all other regulations in this chapter for accessory structures proposed after the date of adoption of this amendment for:

- (a) Lots which are zoned residential or agricultural.
  - (b) Lots which are not zoned residential but which are less than 20 acres and used principally for residential purposes.
  - (c) Accessory structures for second farm dwellings on land that is zoned agricultural.
- (2) This amendment shall also apply to structures which are legal, nonconforming uses as of the date of adoption of this amendment.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE** — A building or structure, with three or more enclosed sides, subordinate to the principal use of a structure, located on the same lot serving a purpose customarily incidental to the principal use of the principal structure. No accessory structure or part thereof shall be used for eating, sleeping, or living quarters. An accessory structure excludes structures with an area less than 120 square feet and a height less than 10 feet.

**ACCESSORY USE** — A use subordinate to the principal use of a parcel and the structures located on that parcel.

**HISTORICAL STRUCTURE** – A structure designated historic by either the Wisconsin Historical Society or the National Historic Register. Such structures may be excluded from typical accessory building square footage allowance for a parcel in order to promote their preservation in the Town of Erin.

C. Permitted uses. In residential districts, permitted uses shall include one structure accessory to the single-family dwellings with attached or detached garages, provided that the accessory structure may be built only when the principal structure is present on the lot or under construction and provided further the total floor area of such accessory structure may not exceed the size as allowed in this amendment.

D. Design standards. The type and color of building materials for accessory structures shall be compatible with the type and color of building materials used for the primary structure(s) on the lot. Landscape screening shall be used to restrict the view of the structure from surrounding properties and/or the road. The roof shape, slope, color, and materials should be compatible with that of the primary structure(s) on the lot. Other designs of accessory structures are allowed by a conditional use permit if the structure is:

- (1) An agricultural structure with significant historic value constructed prior to 1970; or
- (2) A restoration, rehabilitation, or expansion of an agricultural structure built prior to 1970 that is consistent with the original historical appearance of the structure (provided that the expansion does not exceed the area limits permitted by the applicable zoning district upon which the structure is located); or

- (3) A replication of an historic rural building consistent with the character of nearby structures, the site, and the surrounding area.
- E. Height standards. Accessory building height shall be regulated by the zoning code for the district in which the structure is proposed.
- F. Location of accessory structures
  - (1) Conditional uses for locations in front/street yards. Accessory uses and detached accessory structures are permitted in the rear and side yards, and may be allowed by conditional use permit in street/front yards as follows:
    - (a) There is no other feasible location for the accessory structure; or
    - (b) The principal building on the lot has an extraordinarily deep setback from the street; or
    - (c) The accessory structure will be visually screened from the street(s) and/or adjacent properties by existing or planted deciduous and evergreen trees and shrubs; or
    - (d) A combination of the above items in Subsection F(1) through (3).
    - (e) As an alternative to items in Subsection F(1) through (4), an accessory structure can be located on a street yard if it is:
      - (1) An agricultural structure with significant historic value constructed prior to 1970; or
      - (2) A restoration, rehabilitation or expansion of an agricultural structure built prior to 1970, that is consistent with the original historical appearance of the structure (provided that the expansion does not exceed the area limits permitted by the applicable zoning district on which the structure is located); or
      - (3) A replication of an historic rural building consistent with the character of nearby structures, the site and the surrounding area.
    - (f) In addition to items in Subsection F(1) through (5), all reasonable relevant site plan review standards shall be applied.
  - (2) Accessory structures under 35 feet in height shall not be closer than 10 feet to the principal structure, and not closer to any lot line than 25 feet. Structures 35 feet in height or greater shall be 2.5 times the height of the building from the side and rear lot lines. This offset shall not be reducible. [Amended 9-17-2001]
  - (3) Garden utility-type structures 120 square feet or less in area may be located as close as six feet to a side or rear lot line, provided that such structures located within the rear yard do not exceed a height of 10 feet. Structures must be 10 feet from septic systems with a waiver from the Washington County Planning and Parks Department.
- G. Number of accessory structures.

- (1) The number of accessory structures allowed on a lot is limited as follows, unless a conditional use permit is granted by the Plan Commission:

<b>Lot Size (acres)</b>	<b>Maximum Number of Accessory Structures</b>
Up to 3 acres	1
3.0 but less than 5	2
5.0 or higher	3

- (2) The combined area for all accessory structures cannot exceed the size limitations described in Subsection H except that an attached lean-to or outside shelter is permitted if it does not exceed 25% of the building footprint of the accessory structure(s) on the same lot.

H. Size limitations for accessory buildings.

- (1) The maximum building footprint for all accessory structures on the same residential lot shall be 0.5% of the area of the lot on which it is located, or 900 square feet, whichever is greater.

- (2) For residential lots of 1.5 or more acres, completed prior to August 29, 1989, and with principal structure and detached garage (and no attached garage or converted garage), the area of the detached garage, or 650 square feet, (whichever is smaller), shall be exempt from the calculation of the maximum building footprint. [Added 10-19-1998; amended 10-18-1999]

I. Conditional uses for structures greater than 900 square feet. [Added 6-14-1999]

- (1) All accessory structures greater than 900 square feet shall require a conditional use permit and a site plan review.

J. Approval process for accessory buildings. [Added 5-21-2001]

- (1) The Zoning Administrator may approve all accessory buildings lying in the side or rear yards if those accessory structures fall within the limits of the above formula. The Zoning Administrator may require Plan Commission review and approval for any structure at his/her discretion.

- (2) For structures greater than 900 square feet in floor area, a complete site plan as described in Article III, Site Plan Review, of this chapter, must be provided to the Zoning Administrator for approval.

- (3) Should a property owner wish to build an accessory building larger than allowed by the formula, the owner may petition for a public hearing to obtain a conditional use permit. A complete site plan as described in Article III, Site Plan Review, of this chapter, shall be submitted at the time of the conditional use permit application.

ARTICLE III  
Site Plan Review

**§ 360-17. Purpose.**

- A. This article regulates the development of structures and sites in a manner which considers the following concerns, and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:
- (1) The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, storm water runoff, etc.);
  - (2) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
  - (3) The adequacy of waste disposal methods and protection from pollution of surface water or groundwater; and
  - (4) The protection of historic and natural environmental features on the site under review, and in adjacent areas.
- B. Accessory buildings in street yards as described under § 360-11H of this chapter shall require site plan review even though all conditions have been met in Subsection A(1) through (4).

**§ 360-18. Projects requiring site plan review.**

No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building shall be given and no existing use shall be expanded in floor area except in conformity with a site plan approved by the Plan Commission. Site plan review shall also be required for the resumption of any use discontinued for more than two years, or for the expansion of any existing use. "Expansion" shall include a floor space increase of 25% or more within any ten-year period, or the introduction of new materials or processes not previously associated with the existing use. Required approval includes proposals for commercial, industrial, office, multiple-dwelling residential developments, municipal, institutional, utility, fraternal or recreational purposes. If a business or industry is nonconforming as to use or development, the requirements of § 360-9 must be met before site plan review is conducted.

**§ 360-19. Exemptions from site plan review.**

Site plan review shall not be required for:

- A. The construction or enlargement of any single-family or two-family dwelling, or single building accessory to such dwelling, provided that the accessory building is 900 square feet or smaller in size, and is devoted to residential purposes, not including home occupation purposes.

- B. The construction or alteration of any building, other than a residence used exclusively for agricultural permitted uses under § 360-36.
- C. Construction or alteration providing for not more than 200 square feet total floor area after construction.
- D. Customary home occupations as defined in this chapter in § 360-13.

**§ 360-20. Procedure.**

- A. Preliminary application conference. Prior to the official submission of a site plan for review by the Plan Commission, the owner or his agent may meet with the Town Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development. The purpose of this conference is to offer plan evaluation prior to entering the detailed site plan review process.
- B. An applicant for site plan review under this section shall file with the Plan Commission, at a regularly scheduled meeting, five copies each of the site plan documents (see § 360-21 for requirements). The Plan Commission Chair shall acknowledge receipt of these plans by endorsing them with his/her signature and the date of receipt. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file.
- C. The Plan Commission shall obtain with each submission a deposit sufficient to cover any expenses connected with the public hearing and review of the plans. The Plan Commission is authorized to retain a registered professional engineer, architect, landscape architect, or other professional consultant to advise the Commission on any or all aspects of the site plan. The cost of this advice shall be borne by the applicant.
- D. After reviewing the application for completeness and determining that it is complete, the Plan Commission shall transmit to the Building Inspector, or other boards or consultants as deemed necessary, one copy each of the site plan documents with a request that they report back within a specified reasonable time frame.
  - (1) The Building Inspector or other professional consultant hired by the Commission has up to 60 days to submit recommendations in writing to the Plan Commission concerning:
    - (a) The adequacy of the data and procedures used by the applicant to determine the impacts of the proposed development;
    - (b) The effects of the projected impacts of the proposed development; and
    - (c) The recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.
  - (2) Failure of reviewing body/individual to report within the allotted time shall be interpreted as nonopposition to the submitted site plan.

- E. The Plan Commission shall hold a public hearing for site plan review. The Plan Commission's final action, rendered in writing, shall consist of either:
- (1) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development, and is in compliance with the standards set forth in this chapter;
  - (2) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards set forth in this chapter; or
  - (3) Approval of the site plan subject to any conditions, modifications, and restrictions as required by the Plan Commission, which will ensure that the project meets the standards for review.

**§ 360-21. Submission requirements.**

- A. A site plan shall be prepared by a registered professional engineer, architect, planner or landscape architect, or other person experienced or qualified to prepare the site plan with the detail and accuracy requested, at a scale of one inch equals 20 feet, on standard twenty-four-inch by thirty-six-inch sheets, with continuation on eight-and-one-half-inch by eleven-inch sheets as necessary for narrative. A site plan shall include all data, details, and supporting information as outlined below in Subsection B. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, with notations explaining the reasons for any omissions.
- B. Items required for submission at the discretion of the Zoning Administrator or the Plan Commission include:
- (1) Name of the project, boundaries, and local maps showing site's locations in Town, date, North arrow, and scale of the plan.
  - (2) Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
  - (3) Names and addresses of all owners of record of abutting parcels and those within 1,000 feet of the property line.
  - (4) Provide indication and markings of all existing lot lines, easement, and right-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within 1,000 feet of the site.
  - (5) The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
  - (6) The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences. Locations, type, and screening details for all waste disposal containers shall also be shown.

- (7) The locations, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- (8) The location, height, size, materials, and design of all proposed signage.
- (9) The location of all present and proposed utility systems, including sewage or septic system, water supply system, telephone, cable and electrical systems; and storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales. The Plan Commission may also request soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments.
- (10) Plans to prevent the pollution of surface water or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable. Other pollution factors such as noise and odor shall be addressed.
- (11) Existing and proposed topography at a two-foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one-hundred-year floodplain, the area will be shown and base flood elevations given. Indicate areas within the proposed site and within 50 feet of the proposed site where ground removal or filling is required and give its approximate volume in cubic yards.
- (12) A landscape plan showing all existing natural land features, trees, forest cover, and water sources, and all proposed changes to these features, including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
- (13) Zoning district boundaries within 1,000 feet of the site's perimeter shall be drawn and identified on the plan.
- (14) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, driveways on the site and within 300 feet of the site. Visibility considerations shall be addressed. The Plan Commission may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
  - (a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - (b) The projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  - (c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
- (15) For new construction or alterations to any existing building, a table containing

the following information must be included:

- (a) Area of building to be used for a particular use, such as retail operation, office, storage, etc.;
  - (b) Maximum number of employees;
  - (c) Maximum seating capacity, where applicable; and
  - (d) Number of parking spaces existing and required for the intended use.
- (16) Elevation plans at a scale of 1/4 inch equals one foot for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- (17) Summary long-term (three to five years) property development plan which clearly addresses intended building (construction, modification, or removal thereof) and land utilization.

**§ 360-22. Standards for review.**

The Plan Commission shall review and determine whether the site plan and supporting documents, with possible revisions that the Plan Commission may direct, achieves the reasonable fulfillment of the objectives listed below. Detailed design guidelines and performance standards shall be adopted by the Plan Commission to supplement these standards and to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

- A. Conformity with the provisions of the ordinances of the Town, the Wisconsin Statutes, and all applicable rules and regulations of state and federal agencies.
- B. Convenience and safety of both vehicular and pedestrian movement within the site, and in relationship to adjoining ways and properties. Consideration should also be given to including improvements to facilitate pedestrian and bicycle accessibility.
- C. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
- D. Reasonable demands placed on Town services and facilities.
- E. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
- F. Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
- G. Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

- H. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
- I. The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape.

**§ 360-23. Enforcement.**

- A. The Plan Commission may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any permit when work is not performed as required.
- B. Any permit issued under which site plan review was required shall lapse within two years if a substantial use thereof has not commenced, except for good cause. The time required to pursue and await determination of a judicial appeal shall be included within the two-year time limit.

**ARTICLE IV  
Signage Regulations**

**§ 360-24. Purpose.**

The purpose of this article is:

- A. To promote the safety, comfort, and well-being of the users of streets, roads, and highways in the Town;
- B. To reduce distractions and obstructions from signs which would adversely affect traffic safety, and to eliminate hazards caused by signs projecting over or encroaching upon public ways;
- C. To discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- D. To preserve or enhance Town character by requiring new and replacement signage which is:
  - (1) Creative and distinctive;
  - (2) Compatible with the surroundings;
  - (3) Appropriate to the type of activity to which it pertains;
  - (4) Expressive of the identity of individual proprietors or of the community as a whole; and
  - (5) Appropriately sized in its context, so as to be easily readable.

**§ 360-25. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**BILLBOARD** — An off-premises sign.

**FACADE** — The exterior surface of a building.

**FLASHING SIGN** — A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, direction, or animation. Illuminated signs which indicate the date, time, and temperature will not be considered flashing signs.

**FREESTANDING SIGN** — A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer-type signs.

**ILLUMINATED SIGN** — Any sign lit by electrical bulbs, fluorescent, lights, or neon tubes. Neon tubes used as abstract, graphic, decorative, or architectural elements shall be considered to constitute an illuminated sign.

**LINTEL** — The horizontal support member across the head of a door or window.

**MOVABLE SIGN** — A sign capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels, or supported by legs.

**OFF-PREMISES SIGNS** — Any sign which is not on the premises of the business, including a billboard.

**ON-PREMISES SIGNS** — Any sign that advertises, calls attention to, or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent.

**PROJECTING SIGN** — A sign which is affixed to a building, tree, or other structure and which extends more than six inches beyond the surface to which it is affixed.

**ROOF SIGN** — A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted on or fastened to a roof.

**SIGN** — Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a travelled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, excluding window displays and merchandise.

**TEMPORARY SIGN** — A sign intended to be used for a period of no more than 30 days. Exceptions for pennants and similar devices intended for civic purposes may be granted by special permit.

**WALL SIGN** — Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building, and which extends not more than six inches from the surface of that building.

**§ 360-26. General regulations.**

A. Permitted signs. Only signs which refer to a permitted use or an approved

conditional use are permitted, provided such signs conform to the provisions of this section.

B. Prohibited signs.

- (1) Billboards, streamers, pennants, ribbons, spinners, or other similar devices shall not be constructed, posted, or erected in any district. Exceptions include flags and bunting exhibited to commemorate national patriotic holidays, and temporary banners announcing charitable or civic events.
- (2) Movable signs, flashing signs, roof signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted, provided they meet all other provisions of this chapter.
- (3) Any sign advertising or identifying a business or organization, which is either defunct or no longer located on the premises, is not permitted.
- (4) No sign, except for a traffic, regulatory, or information sign, shall use the words "stop," "caution," or "danger," or shall incorporate red, amber, or green lights resembling traffic signals, or shall resemble "stop" or "yield" signs in shape and color.
- (5) Illuminated signs shall not be lit between the hours of 11:00 p.m. and 6:00 a.m., unless the premises on which it is located is open for business.
- (6) A sign that constitutes a hazard to pedestrian or vehicular traffic because of intensity, direction of illumination, or location.
- (7) Signs are not permitted in the LC, F or SO Zoning Districts, except to identify public parks and serve as directional signage.

C. Placement standards.

- (1) No person may erect a sign which is affixed to a fence, utility pole, or structure, or tree, shrub, rock, or other natural object.
- (2) Signs shall not be mounted on roofs or extend above the roofline (unless mounted on a parapet wall which extends above the roofline, in which case the sign may not extend above the top of said parapet).
- (3) No projecting sign shall extend into a vehicular public way, or be less than 10 feet above a pedestrianway.
- (4) No sign together with any supporting framework shall extend to a height above the maximum building height allowed in a district.

D. Safety standards. No person may erect a sign which:

- (1) Is structurally unsafe;
- (2) Constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment;

- (3) Obstructs free entrance or exit from a required door, window, or fire escape;
- (4) Obstructs light or air, or interferes with proper functioning of the building; or
- (5) Is capable of causing electrical shock.

E. Exceptions. For the purpose of this section, the term "sign" shall not include:

- (1) Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, ordinance, or other regulation;
- (2) A bulletin board or similar sign not exceeding 20 square feet in display area, in connection with any church, museum, library, school, or similar public or semipublic structure, provided that the top of such sign shall not be more than eight feet above ground level, and provided that it does not possess any of the characteristics listed in Subsection B above;
- (3) Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, and where display area does not exceed three square feet or extend higher than four feet above ground level. Such sign will conform in all respects with the requirements of this chapter; and
- (4) Signs relating to trespassing and hunting, not exceeding two square feet in area.

F. Nonconforming signs.

- (1) Continuance. A nonconforming sign lawfully existing at the time of adoption or subsequent amendment of this chapter may continue, although such sign does not conform to the provisions of this chapter.
- (2) Maintenance. Any lawfully existing sign cannot be enlarged, reworded (other than in the case of cinema or theater signs, or signs with automatically changing messages), redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this chapter; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost shall not be repaired or rebuilt or altered except to conform to the requirements of this chapter.
- (3) Replacement. Any sign replacing a nonconforming sign shall conform with the provisions of this section, and the nonconforming sign shall no longer be displayed.

**§ 360-27. Administration; permit requirements.**

A. Permits.

- (1) No sign shall be erected, displayed, altered, or enlarged until an application has been filed, and until a permit for such action has been issued. Applications shall be on forms supplied by the Town Clerk. All applications shall include a

scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems, and location on land or buildings with all relevant measurements.

- (2) Permits shall be issued only if the Zoning Administrator determines the sign complies or will comply with all applicable provisions of this chapter and Wisconsin Statutes. Such application may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises.
  - (3) The Zoning Administrator shall act within 60 days of receipt of such application, together with the required fee. The Zoning Administrator's action or failure to act may be appealed to the Board of Adjustment.
  - (4) A conditional use permit is required for lighted signs and signs which are larger than those allowed by right.
  - (5) A temporary, 60-day sign permit may be granted at the discretion of the Zoning Administrator, with typical fees applying.
- B. Fees. Fees are established in § 360-74 of this chapter.
- C. Enforcement. The Zoning Administrator is authorized to enforce this article and may order the repair or removal of any sign and its supporting structure which is judged dangerous, or in disrepair, or which is erected or maintained contrary to this chapter.
- D. Removal of signs. Any sign which has been ordered removed by the Zoning Administrator, or is abandoned or discontinued, shall be removed by the person, firm, or corporation responsible for the sign within 30 days of written notice to remove.
- E. Penalties. Violation of any provision of this chapter or any lawful order of the Zoning Administrator shall be subject to penalties as specified in § 360-77. Each day that such violation continues shall constitute a separate offense.
- F. Measurement of sign area.
- (1) Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.
  - (2) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols, together with any background of a different color than the natural color, or finish material of the building.
  - (3) For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
  - (4) The area of supporting framework (for example brackets, posts, etc.) shall not

be included in the area if such framework is incidental to the display.

- (5) When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.
- G. Measurement of height. The height of any sign shall be measured from the surface of the road up to the highest point of the sign. In situations where a sign is intended to be visible from two roads of different elevations, measurements shall be from the surface of the lower roadway.

**§ 360-28. General standards for specific types of signs.**

- A. Address. One sign displaying the street number or name of the occupant of the premises, or both.
- (1) Such sign may include identification of an on-premises professional office or customary home occupation.
  - (2) Such sign may be attached to the building or may be on a post not more than four feet high, and set back at least three feet from the public right-of-way.
  - (3) Such sign shall not exceed two square feet in area.
- B. Construction. An on-premises sign identifying the contractor, architect, landscape architect, and/or engineer's name, address, and other pertinent information. This sign does not count against size or number limits of signs in the district.
- (1) Such signs shall not exceed 12 square feet in area and shall be set back at least 10 feet from the street lot line, or 1/2 the building setback distance, whichever is less.
  - (2) Such a sign may be maintained on the building or property for the interim of construction, and not more than 30 days following the completion of said construction.
- C. For sale/rent/lease. An on-premises sign advertising the property being sold or rented. This type of sign shall not count against sign size or number limits.
- (1) Such signs shall not exceed six square feet.
  - (2) Such signs shall advertise only the property on which the sign is located.
  - (3) A maximum of two such signs may be maintained on any property being sold or rented, and they shall be removed by the owner or agent within 30 days of sale, rent, or lease.
- D. Multiple signs. A group of signs clustered together in a single structure or compositional unit. Multiple signs shall only be used to advertise several occupants of the same building or building complex.

- (1) The display board shall be of an integrated and uniform design.
  - (2) The maximum sign area permitted is 16 square feet for the sign bearing the name of the building or office park, and two square feet for the name of each business or office located therein.
  - (3) Complexes with over 300 feet of frontage will be allowed two freestanding signs.
- E. Painted wall signs. A permanent mural or message painted directly onto a building surface. A conditional use permit is required for all new signs of this type, and will comply with the dimensional requirements of a wall sign. Exceptions are granted to existing signs which may be preserved and maintained, even if they no longer pertain to the present use of the premises.
- F. Political signs. Signs communicating political messages as per § 12.04, Wis. Stats., may be erected during the election campaign period [§ 12.04(1)(a), Wis. Stats.] without a sign permit. Such signs shall be removed within two calendar days after election. Such signs shall not exceed six square feet.
- G. Window signs. Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window with the purpose or effect of identifying any premises from the sidewalk or street.
- (1) Window signs shall not exceed more than 30% of the window area in which they are displayed.
  - (2) Nontemporary signs hung inside windows will be made of clear materials such as plexiglass with lettering painted on them.
- H. Home occupation signs. Signs for home occupations shall not exceed two square feet in size and shall comply with the locational requirements for the zoning district in which they are located.

**§ 360-29. Districts and special regulations.**

- A. Types of districts.
- (1) Commercial/industrial. These regulations shall apply to all commercial and industrially zoned land within the Town of Erin.
  - (2) Agricultural. These regulations shall apply to all agriculturally zoned land in the Town of Erin.
  - (3) Residential. These regulations shall apply to all residentially and upland conservancy zoned land within the Town of Erin.
- B. District requirements.
- (1) Commercial/industrial.
    - (a) Number. There shall be no more than three types of signs employed per building, regardless of number of occupancies (e.g., freestanding,

awning and window; or wall, window and awning).

[1] Each ground floor occupant of a building may display two signs.

[2] Each occupant in an upper level of a building may display one sign.

- (b) Colors. Colors should be chosen to complement, not clash, with the facade color of the building.
  - (c) Size. No more than 1.5 square feet of total signage area will be permitted per linear foot of commercial or industrial building front. A maximum of 100 square feet of signage per parcel is permitted.
  - (d) Height. No sign may be taller than the height restrictions for the district in which it is located and no sign may be taller than the height of the principal building on the parcel, whichever is more restrictive.
- (2) Agricultural. The goal in this district is to provide legible signage for agricultural operations without decreasing the visual attractiveness of the environment.
- (a) Number. There shall be no more than two types of signs employed per parcel (e.g., freestanding, wall).
  - (b) Colors. The number of colors should be limited to three. Since these signs must be legible from a distance, the degree of contrast between the background and letter color is important. Dark backgrounds with light-colored letters is strongly encouraged.
  - (c) Size. For roadside stand operations that are an accessory use to the farm operation, and sell only items produced by that agricultural operation, a maximum of 24 square feet of signage is allowed. For all other agricultural operations, a maximum of six square feet is allowed.
  - (d) Height. No sign shall be more than 10 feet high.
- (3) Residential. The most important goal in this area is to maintain the residential character and scenic open space. Special care should be taken in determining the quality of the style, location, design, and use of materials for signs in the residential districts.
- (a) Number. One sign.
  - (b) Colors. The number of colors used in a sign should be limited to three unless used in an illustration. To ensure the legibility of the sign, a high degree of contrast between the background and letters is preferable. The use of dark backgrounds with light-colored lettering is encouraged.
  - (c) Size. Total signage in residential districts shall not exceed two square feet.
  - (d) Height. No sign shall be more than four feet high.

**§ 360-30. Maintenance.**

A sign shall be maintained in a secure and safe condition. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in a good state of repair, written notice of this fact shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted by the Zoning Administrator, the Zoning Administrator may revoke the sign permit, thus placing the sign owner in violation of this article and liable for a fine as specified in § 360-77.

**§ 360-31. Sign permit submittal requirements.**

The sign application package shall consist of three main parts: a photograph or elevation drawing illustrating and describing the sign location; a sketch and cross-section of the proposed sign (drawn to scale, noting all dimensions, materials, paint color, and mounting methods); and a written application on a form provided by the Town.

ARTICLE V  
**Zoning Districts and Zoning District Maps**

**§ 360-32. Establishment of zoning districts.** <sup>5</sup>

In order to carry out the purposes and provisions of this chapter, the following zoning districts are hereby established:

- A Agricultural
- AN Agricultural No Development District
- R-1 Single-Family Residence District
- DLR Druid Lake Residential District
- R-3 Single-Family Residence District
- R-5 Single-Family Residence District
- R-10 Single-Family Residence District
- R-20 Single-Family Residence District
- B Business/Commercial District
- I Industrial District
- UC Upland Conservancy
- LC Lowland Conservancy
- F Floodplain
- SO Shoreland Overlay
- PR Park-Recreational District
- I-1 Institutional District

**§ 360-33. Zoning District Maps.**

- A. Incorporation of Zoning District Maps. The location and boundaries of the zoning districts are as shown on maps, entitled "Zoning District Maps" on file in the office of the Town Clerk. The Zoning District Maps, together with all information shown

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<sup>5</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

and all amendments made to the map, shall be as much a part of this chapter as if fully set forth and described herein. The map shall be updated annually, or as determined necessary by the Zoning Administrator.

- B. Location of district boundaries. The following rules shall apply with respect to the boundaries of the zoning districts as shown on the Zoning District Maps:
- (1) Where zoning district boundary lines are indicated as following streets or alleys or extensions thereof, such boundary lines shall be construed to be the center lines of said streets or alleys or extensions thereof, unless clearly shown to the contrary.
  - (2) Where any uncertainty exists as to the exact location of zoning district boundary lines, the Board of Adjustment, upon written application, shall determine the location of such boundary lines.
  - (3) Streets or alleys which are shown on the Zoning District Maps and which are then vacated, or which in the future are vacated, shall be in the same zoning district as the abutting side to which the vacated land reverts.

**§ 360-34. Residential development and zoning districts.**

- A. Every parcel of record, as of the adoption date of this chapter, in the Agricultural, Residential and Upland Conservancy Districts shall be considered to be conforming as to lot size as long as the parcel size is greater than 40,000 square feet. If the parcel is below 40,000 square feet, the provisions of § 360-8 shall apply as to the use of that parcel for residential purposes.
- B. When a parcel is placed in a residential zone through the rezoning process, the district (R-3, R-5, R-10 or R-20) chosen shall conform the district to the size of the parcel. For example, a four-acre parcel would be rezoned to R-3, a twelve-acre parcel would be rezoned to R-10, a twenty-acre parcel to R-20, etc.
- C. During the rezoning process, if a parcel would be created with no development rights, that property shall be rezoned to AN. When requesting a rezoning that would create a parcel with no development rights, all owners of record shall submit a signed petition requesting a change in zoning for that parcel to AN. That petition shall be noticed and a public hearing scheduled in conjunction with the rezoning of the other parcels. If a parcel is created with more than one development right remaining, it may remain zoned A Agricultural or it may be placed in a residential district at the discretion of the Plan Commission.

**§ 360-35. Net density standards.** <sup>6</sup>

These standards shall apply to all residential development within the Town of Erin.

- A. Right of development. Each parcel vacant, as of the adoption date of this chapter,

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<sup>6</sup>. Editor's Note: See also § 235-25, Net density standards.

has the right to develop at least one residential dwelling unit. The total number of residential units allowed to be developed is described below. Development is prohibited in all DNR-mapped wetlands or floodplains except that public and private roads may be constructed through wetland-flood land conservancy areas designated on the Official Zoning Map with the written approval of the Wisconsin Department of Natural Resources, the US Army Corps of Engineers, and the Washington County Parks and Land Use Department and the Town of Erin Plan Commission if they have jurisdiction and chose to exercise it. Wetlands taken for a road shall be replaced on the site being developed at a minimum ratio of two acres for every one acre taken. [Amended 9-19-2005 by Ord. No. 05-07]

- B. Developable opportunity calculations. All land which is not wetland plus 33.3% of the acreage which is suspected or designated to be wetland on that parcel constitutes the acreage that will be used in calculating development opportunities for that parcel. Therefore, if a one-hundred-twenty-acre parcel has 20 acres of wetlands, the development opportunities assigned to that parcel would be based on 106.6 acres (100 acres of non-wetland plus  $20 \times 33.3\% = 106.6$ ). In no situation shall any construction of residential units occur in wetlands. Transferring development rights may only be permitted with approval of both the Plan Commission and Town Board.
- C. Net density calculations. Lot averaging may be allowed at the discretion of the Plan Commission and Town Board if the total density of the development site does not exceed the density as shown in the adopted Town of Erin Land Use Map. Lot sizes may vary, as prescribed in the Town code.
  - (1) Allowable net density for land within the critical watersheds and the Loews Lake Preservation Area shall be one dwelling unit for every seven acres of development opportunity. Minimum lot size shall be calculated as in the individual district regulations.
  - (2) For land within environmental corridors, the net density shall be one dwelling unit for every five acres of developable land with minimum five-acre-lot size, unless the units are clustered by conditional use under § 360-46 of this chapter. Modification to the environmental corridor line may occur contingent upon an Environmental Corridor Delineation completed by or provided concurrence by the Southeastern Regional Planning Commission.
  - (3) For all other areas, the net density requirement shall be at the owner's choice:
    - (a) Three and one-half acres per dwelling unit with minimum three-and-one-half-acre lots; or
    - (b) Five acres per dwelling unit with one-and-one-half-acre lots minimum size.
  - (4) Large subdivision development (those with more than 20 lots). In all large subdivisions, the number of one-and-one-half-acre lots allowed under the formula in § 360-35 shall be limited to no more than 30% of the total number of lots. Other lots should vary in size, increasing by minimum increments of

one acre. The next 30% of lots shall be at least 2 1/2 acres in size. The remaining 40% must be lots of at least 3 1/2 acres in size.

- (5) If the entire original parcel is submitted for subdivision or certified survey or site plan review in the case of condominium developments, and no dwelling unit rights have been split off of the original parcel, the calculation of net density shall be made on the original parcel size, assuming that not more than 10% of the tract is in roads and parks (not including wetlands or floodplains). Land in roads or parks above 10% of the original parcel size shall not be counted toward its net density. If the original parcel is being developed piece by piece, the net density required areas per dwelling units must all be in lots, outlots, or residual tracts; not in roads, parks, etc.

- D. On-site sewage disposal. Development is not allowed unless an on-site waste disposal permit is issued by Washington County, prior to receiving a certificate of zoning compliance.

#### **§ 360-36. A Agricultural District.**

The Agricultural District is for land in agricultural use.

##### A. Permitted uses.

- (1) One single-family farm dwelling and attached or detached garage.
- (2) On parcels of 35 acres or larger, farms operating for the raising of crops, for the raising of cattle or other livestock, for dairying, fish farming, fish hatcheries, field nurseries, orchards, truck farms, poultry raising (with or without egg production) under 1,000 birds, and livestock operations under 300 head.
- (3) Nondwelling uses and a structure accessory to the above permitted uses, provided that the accessory structure may be built only when the principal structure is present on the lot or under construction, subject to § 360-36B(18) for parcels of less than 35 acres.
- (4) Home occupations as per § 360-13.
- (5) On parcels of less than five acres, no livestock is allowed unless by conditional use approval. On parcels of five or more acres, but less than 35 acres, the livestock rules of the R-5 District shall apply.

##### B. Conditional uses.

- (1) Churches and schools.
- (2) Cemeteries.
- (3) Remodeling of farm dwellings which existed prior to April 16, 1957, into two-family farm dwellings, provided that each unit shall have at least 900 square feet of living area and such remodeling shall not include exterior additions.

- (4) Agricultural warehouses or milk processing plants.
- (5) Raising of fur-bearing animals.
- (6) Greenhouses, nurseries, truck farms, and orchards which also have retail trade connected with the business.
- (7) Livestock operations over 300 head and poultry raising (with or without egg production) over 1,000 birds.
- (8) Kennels and pet grooming businesses.
- (9) Manure pits.
- (10) Public parks and open spaces.
- (11) Seasonal roadside stands not exceeding 150 square feet in floor area.
- (12) Housing for farm laborers.
- (13) Second farm dwellings existing prior to the enactment of this chapter and that are grandfathered and utilized in the farm operation by farm employees may be replaced by a similar structure without creation of a separate parcel. [Added 2-15-1999]
- (14) Feedlots.
- (15) Man-made ponds.
  - (a) A pond construction plan shall be prepared by a professional engineer or other qualified person. If an Army Corps of Engineers permit has been issued for the construction of the pond, then a pond construction plan does not have to be created.
  - (b) Plans for pond construction shall be sent to the Washington County Land Use and Parks Department for review and comment prior to the issuance of a conditional use permit by the Town Plan Commission. The Washington County Land Use and Parks Department shall determine whether or not the pond is a navigable body of water and whether or not the Washington County Shoreland and Wetland Zoning and Floodplain Zoning Ordinances apply to all lands adjacent to the pond. If comment is not received within 60 days, the Town shall assume that the county approves of the plan.
  - (c) Plans for pond construction shall be reviewed and approved by the Town Engineer, prior to the issuance of a conditional use permit.
  - (d) Soil borings, as requested by the Town Engineer, shall be presented to the Town Plan Commission as part of the pond construction plan.
  - (e) A pond shall not be constructed closer than 50 feet to the right-of-way of any public street, nor closer than 30 feet to any property line or private street, nor closer than 75 feet from any structure.

- (f) The pond construction plan shall include a detailed discussion of the disposition of castings and provisions for drainage away from the pond.
  - (g) The standards of the United States Soil Conservation Service shall be complied with when constructing a man-made pond, unless shown to the satisfaction of the Plan Commission that the standards do not apply to the specific parcel.
  - (h) If a pond remains dry for a period of one year, the space shall be refilled with earth to the original contour level of the land and be seeded with appropriate vegetation to avoid erosion, unless another conditional use permit is granted.
  - (i) If the pond construction is not completed within two years from the date of issuance, the conditional use permit shall be void, unless an extension is granted by the Plan Commission.
  - (j) Ponds shall not be constructed within 100 feet of any part of an on-site waste disposal system or any alternative site for an on-site waste disposal system.
- (16) Facilities for storage and operation of construction trades, including but not limited to carpentry, drywall, electrical, masonry, painting, and plumbing. All of the foregoing to be at a level and intensity which is clearly incidental and subsidiary to the agricultural use of the property.
- (17) On parcels of less than 35 acres, farms operated for the raising of crops, for the raising of cattle or other livestock, for dairying, fish farming, fish hatcheries, field nurseries, orchards, truck farms, poultry raising (with or without egg production) under 1,000 birds and livestock operations under 300 head.
- (18) Saw sharpening and artist studios.
- (19) In order to promote and encourage farming in the Town of Erin, existing farm dwellings may be exempted from the requirements of the Town of Erin Zoning Ordinance by conditional use permit if sufficient cause can be demonstrated. [Added 4-19-1999]
- (20) Mother-in-law suites (annual renewal required).
- C. General regulations of lot size, bulk restrictions and yard requirements for all uses other than second farm dwellings.
- (1) Lot size:
    - (a) Width: minimum 300 feet (at the road right-of-way).
    - (b) Area: minimum 35 acres.
  - (2) Height:
    - (a) Principal building: maximum 35 feet.

- (b) Agricultural accessory building: maximum 80 feet.
  - (1) Barns, elevators, grain dryers and silos shall not exceed in height the distance to the nearest lot line.
- (c) Non-agricultural accessory building: maximum 15 feet.
- (3) Yards:
  - (a) Front yard setback: 100 feet from the road center line or 50 feet from the right-of-way line, whichever is greater.
  - (b) Shore yard setback: minimum 75 feet.
  - (c) Side yard setback: minimum 50 feet (each side).
  - (d) Rear yard setback: minimum 50 feet.
  - (e) There shall be yards of not less than 25 feet in width on each side of other detached permitted use structures.

D. Accessory uses and detached accessory structures.

- (1) Accessory uses and detached accessory structures are permitted in the rear and side yards only. Under special circumstances, such structures may be permitted in the front yard by conditional use. Such uses and structures shall not be closer than 10 feet to the principal structure; shall not exceed 15 feet in height; shall not be closer than 25 feet to any side yard lot line; shall not be closer than 25 feet to a rear lot line, except that such structures shall be at least 75 feet from the normal high water line of a lake, river, or stream as required by county shoreland regulations.

**§ 360-37. AN Agricultural No Development District.**

The purpose of this district is to indicate when an agriculturally zoned parcel of land has no further right to develop residential dwelling units as per § 360-35. This occurs when an original parcel has had all of its net density used by the development of residential dwelling units, as shown by deed restrictions that have been recorded as per § 360-35. When the last development right has been allocated, the remainder of the original parcel shall be rezoned to AN.

- A. Permitted uses. The same as § 360-36A, except no new single-family residential dwellings may be created. Any existing single-family farm dwelling at the time of rezoning shall be considered as a conforming use.
- B. Conditional uses. Same as § 360-36B.
- C. Lot size, bulk restrictions and yard requirements. Same as § 360-36C.

**§ 360-38. R-1 Single-Family Residence District.**

This district is intended to provide for high quality, low density, single-family residences in a rural setting. Once a property is zoned residential, no further subdivision of the

property is permitted, either by subdivision or certified survey, or creation of additional dwelling units through the condominium procedure.

A. Permitted uses.

- (1) Single-family dwellings with attached or detached garages.
- (2) Nondwelling uses and a structure accessory to the above-permitted uses, provided that the accessory structure may be built only when the principal structure is present on the lot or under construction and provided further the total floor area of such accessory structure may not exceed 900 square feet.
- (3) A yard and gardening equipment storage structure not to exceed 120 square feet in floor area.
- (4) Home occupations as regulated in § 360-13.
- (5) Bus shelters.
- (6) Group homes for eight or fewer residents.

B. Conditional uses.

- (1) Churches and schools.
- (2) Public parks and playgrounds. To encourage a park use environment that is compatible with the residential character of the Town, the building/zoning permits for public parks and playgrounds in the R-1 District shall not be issued without prior review by and approval of plans for such use by the Town Plan Commission and the Town Board. Said review and approval shall be concerned with adjacent uses, general layout, building site and operation plan, building materials, ingress, egress, parking safety, loading and unloading, and drainage, screening and landscape plans.
- (3) Accessory structures greater than 864 square feet.
- (4) Mother-in-law suites (annual renewal required).

C. Lot size, bulk restrictions and yard requirements.

- (1) Lot size:
  - (a) Width: minimum 150 feet (at the setback line). Lot width for culs-de-sac or fan-shaped lots may be a minimum of 50 feet in width at the right-of-way.
  - (b) Area: minimum 1 1/2 acres (65,340 square feet).
- (2) Height:
  - (a) Principal building: maximum 35 feet.
  - (b) Accessory building: maximum 15 feet.
- (3) Yards:

- (a) Front yard setback: minimum 100 feet from the center line of the road or 50 feet from the right-of-way line, whichever is greater.
- (b) Shore yard setback: minimum 75 feet.
- (c) Side yard setback: minimum 30 feet (on each side).
- (d) Rear yard setback: minimum 40 feet.

D. Accessory uses and detached accessory structures.

- (1) Accessory uses and detached accessory structures are permitted in the rear and side yards only. Such uses and structures shall not be closer than 10 feet to the principal structure; shall not exceed 15 feet in height; shall not be closer than 25 feet to any side yard; shall not be closer than 25 feet to a rear lot line, except that such structures shall be at least 75 feet from the normal high water line of a lake, river, or stream as required by county shoreland regulations.
- (2) Garden utility-type accessory structures. Garden utility-type accessory structures 120 square feet or less in area may be located as close as six feet to a side or rear lot line, provided that such structures are located within the rear yard, do not exceed a height of 10 feet.

**§ 360-39. DLR Druid Lake Residential District.** [Added 10-25-2000<sup>7</sup>]

A. Primary purpose and characteristics.

- (1) The DLR Druid Lake Residential District is primarily intended to accommodate the existing older, established areas where such uses are located on smaller lots and parcels around Druid Lake that:
  - (a) Do not conform to the standards for an R-1 Residential District; and
  - (b) Were "lots of record" on the date of approval of this section in accordance with the District Map.<sup>8</sup>
- (2) Any residential use existing in the DLR District shall be considered to be a conforming use for Town ordinance purposes but may not be altered to change the principal use and may only be structurally altered in conformance with R-1 Single-Family Residential District regulations with the following exceptions:
  - (a) Principal uses.
    - [1] Single-family residential dwellings.
    - [2] Essential services, i.e., public utilities.
    - [3] Legal structures and uses in existence prior to the effective date of

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<sup>7</sup>. Editor's Note: A map of the Druid Lake Residential District, which was part of this ordinance, is on file in the Town Clerk's office.

<sup>8</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

this chapter.

[4] Private garages (attached or detached), carports and school bus shelters.

[5] Home occupations as per § 360-13.

(b) Accessory uses.

[1] Boathouses (per Washington County regulations).

[2] Gardening, tool and storage sheds incidental to the residential use.

[a] Less than 1/2 acre equals 900 square feet;

[b] Greater than 1/2 acre equals 1,200 square feet, or square footage of parcel multiplied by 0.005 (43,560 square feet per acre), whichever is greater.

(c) Conditional Uses

[1] Mother-in-law suites (annual renewal required).

- (3) Any multi-dwelling units in existence on the date of approval of this ordinance shall be considered to be a conforming use for Town ordinance purposes.
- (4) Once a property is zoned residential, no further subdivision of the property is permitted, either by subdivision or certified survey map, or creation of additional dwelling units through the condominium procedure.
- (5) This district falls under the jurisdiction of Chapter 235, Land Division and Subdivision Development, as well as under the jurisdiction of Washington County for shoreland, floodplain and wetland regulation. The fact that the Town of Erin recognizes that a parcel is conforming does not preclude the county from classifying the parcel as nonconforming.
- (6) Any amendment or change in regulation pertaining solely to this district may be referred to the Druid Lake Citizen Advisory Group for recommendation.
- (7) All consideration shall be taken as the lots on Druid Lake are each unique and different in their own way. Different sides of the lake are different and unique from each other. Individual lots within the different sides of the lake are different and unique within themselves. This must be considered in any zoning matters within the Druid Lake Residential District.

B. Neighborhood plan.

- (1) Upon the petition of 20% the landowners within the Druid Lake Zoning District, the Town Board may form a citizen advisory group of affected landowners pursuant to focal point zoning for the purpose of making recommendations to the Town relative to the enactment of environmental regulations and safeguards applicable to this district.

- (2) Focal point zoning. The Town Board may initiate the formation of a citizen/landowner's advisory group for a predefined area to study and make recommendations to the Town Board regarding land use regulations pertaining to land within a designated boundary area. Any such advisory group may have participation of state and local agencies involved in the area and have a Town Board representative on such advisory group. The composition of and operating procedure to be followed by such group shall be set out in a memorandum of understanding. Any such group shall be subject to the Wisconsin Open Meeting and Open Records Laws. Funding for consultants must be preapproved by the Town Board. Upon completion of its study, the advisory group shall prepare a written report outlining its findings and the basis for its findings as well as its conclusions and recommendations. The recommendations of such advisory group may be adopted in whole or in part, modified or rejected in whole or in part by the Town Board.

C. Yard, size, bulk, accessory structures, storage and animal standards.

- (1) Yard requirements for principal structures (subject to County Shoreland/Floodplain Ordinance).
  - (a) Street yard from right-of-way: the average, taken from the distance between the corners of the adjacent buildings and the right-of-way line, of the street yards of the nearest residences on each side of the existing lot, but not less than 20 feet from the right-of-way of all roads, where applicable. New: 50 feet from right-of-way ("new" meaning land that has never been subdivided; this does not apply to when someone combines two or more existing lots).
  - (b) Side yard: three feet at overhang on each side. New: 30 feet on each side ("new" meaning land that has never been subdivided; this does not apply to when someone combines two or more existing lots).
  - (c) Rear yard. For existing lots that do not have a shore yard and new lots: minimum 40 feet ("new" meaning land that has never been subdivided; this does not apply to when someone combines two or more existing lots).
  - (d) Shoreyard: 75 feet from ordinary high water mark or as permitted by County Shoreland Ordinance.
  - (e) Wetland setback: 100 feet from DNR-mapped wetland boundary line for new lots ("new" meaning land that has never been subdivided; this does not apply to when someone combines two or more existing lots).
- (2) Lot size, frontage, area, height and sanitation (subject to County Shoreland/Floodplain Ordinance).
  - (a) Acreage.

[1] Existing: minimum recorded.

- [2] New minimum: 1.5 acres ("new" meaning land that has never been subdivided; this does not apply to when there is a combination or two or more existing lots).
- (b) Frontage at setback for flag lots and culs-de-sac.
  - [1] Existing: minimum recorded.
  - [2] New: 150 feet.
  - [3] Flag lots: 100 feet wide at the end of the flagpole.
  - [4] Cul-de-sac: requires minimum 150 feet width at the setback line ("new" meaning land that never been subdivided; this does not apply to when there is a combination or two or more existing lots).
- (c) Frontage at right-of-way for flag lots and culs-de-sac.
  - [1] Existing: minimum recorded.
  - [2] New: 150 feet ("new" meaning land that never been subdivided; this does not apply to when there is a combination or two or more existing lots).
  - [3] Flag lots: 66 feet at right-of-way.
  - [4] Cul-de-sac: 75 feet at right-of-way.
- (d) Principal building area, minimum/maximum.
  - [1] Minimum: existing.
  - [2] New principal building: minimum 1,200 square feet, with 1,000 square feet on lower level plus attached or detached garage.
  - [3] Maximum: 3,000 square feet.
- (e) Principal building maximum height.
  - [1] Minimum: existing height.
  - [2] New principal building: maximum 35 feet.
- (f) Sanitation. As per county ordinance.
- (3) Accessory structures (subject to County Shoreland/Floodplain Ordinance and recommendation of Druid Lake Citizen Advisory Group, if in existence).
  - (a) Location. Shore yard boathouse and lawn shed. All other accessory structures should be in side or street yard where applicable. Structures are encouraged to be located so that lake views are preserved. A principal building is not required to build an accessory structure on existing lots of record on the date of approval of this section.
  - (b) Maximum building area.

- [1] Storage shed:
    - [a] Greater than 1/2 acre: 1,200 square feet.
    - [b] Less than 1/2 acre: 900 square feet.
  - [2] One one-hundred-twenty-square-foot lawn shed;
  - [3] One five-hundred-square-foot boat house.
- (c) Maximum height. The maximum height of any accessory structure shall be 15 feet. The slope of the roof shall be at least 18° and no more than 45°, except for gambrel roof in which that average slope should not exceed 60°. Gable and gambrel roof forms are preferred. Exceptions to these dimensional requirements can be made for restoration and rehabilitation of historic structures by a conditional use permit
- (d) Allowed building materials.
- [1] The type and color of building materials shall be similar in appearance and color to the building materials used for the primary structure on the lot.
  - [2] Landscape screening shall be used to restrict the view of the structure from surrounding properties and/or the road where applicable. The roof shape, slope, color should be similar in appearance to that of the primary structure on the lot.
  - [3] On lots larger than 1 1/2 acres, other designs of accessory structures are allowed.

**§ 360-40. R-3 Single-Family Residence District (3.00 to 4.99 acres).**

All standards are the same as R-1 District except that lot size shall be a minimum of three acres. Minimum lot width shall be 300 feet, reducible to as low as 150 feet for lots created as minor subdivision (CSM) but not as lots created as parts of subdivisions, on a conditional use basis where reduction is necessary to achieve workable lots under R-3 or R-5 (by cross reference) zoning.

**§ 360-41. R-5 Single-Family Residence District (5.00 to 9.99 acres).**

- A. Permitted uses.
- (1) All permitted uses in the R-1 District.
  - (2) The keeping of livestock limited to no more than one livestock unit per two acres.
- B. All other standards are the same as the R-3 District, except the lot size shall be a minimum of five acres for the R-5 District.

**§ 360-42. R-10 Single-Family Residence District (10.00 to 19.99 acres).**

All standards are the same as the R-5 District, except that lot size shall be a minimum of 10 acres for the R-10 District.

**§ 360-43. R-20 Single-Family Residence District (20.00 or more acres).**

All standards are the same as the R-5 District, except that for the R-20 District the minimum lot size is 20 acres.

**§ 360-44. B Business/Commercial District.**

- A. Permitted uses. None.
- B. Conditional uses. All commercial developments in the Town of Erin shall require a conditional use permit authorized by the Plan Commission. This district shall apply to all nonmanufacturing industries, trades, and services as defined in the Standard Industrial Classification Manual.
- C. Site plan review. No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any commercial building shall be given, and no existing use expanded in floor area except in conformity with a site plan approved by the Plan Commission. The site plan review process of Article III is separate from the conditional use process, and shall be applied for and done after a conditional use permit is granted.
- D. Lot size, bulk restrictions and yard requirements.
  - (1) Lot size:
    - (a) Width: minimum 150 feet.
    - (b) Area: minimum 1 1/2 acres.
  - (2) Height:
    - (a) Principal building: maximum 35 feet.
    - (b) Accessory building: maximum 20 feet.
  - (3) Yards:
    - (a) Front yard setback: minimum 100 feet from the center line of the roadway or 50 feet from the right-of-way line, whichever is greater.
    - (b) Shore yard setback: minimum 75 feet.
    - (c) Side yard setback:
      - [1] Minimum 40 feet each side when abutting a noncommercial use;
      - [2] Minimum 20 feet each side when abutting a commercial use.
    - (d) Rear yard setback: minimum 50 feet.
    - (e) Impervious surface: maximum 50% ratio of the total lot area.

**§ 360-45. I Industrial District.**

The Industrial District is intended to provide for manufacturing or fabrication operations, which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the Town as a whole by reason of smoke, odor, noise, dust flash, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect. All uses in this district must meet the State of Wisconsin Industrial Standards.

- A. Permitted uses. None.
- B. Conditional uses. All industrial developments in the Town of Erin shall be required to obtain a conditional use permit authorized by the Plan Commission. The conditional use procedures shall be the same as the procedures outlined in the Commercial District. The Industrial District shall apply to all manufacturing uses as classified by the Standard Industrial Classification Manual.
- C. Site plan review. No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any industrial building shall be given, and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Plan Commission. The site plan review process of Article III is separate from the conditional use process, and shall be applied for and done after a conditional use permit is granted.
- D. Lot size, bulk restrictions and yard requirements.
  - (1) Lot size:
    - (a) Width: minimum 150 feet.
    - (b) Area: minimum 1 1/2 acres (65,340 square feet).
  - (2) Height:
    - (a) Principal building: maximum 35 feet.
    - (b) Accessory building: maximum 20 feet.
  - (3) Yards:
    - (a) Front yard setback: minimum 100 feet from the center line of the roadway or 50 feet from the right-of-way line, whichever is greater.
    - (b) Shore yard setback: minimum 75 feet.
    - (c) Side yard setback:
      - [1] Minimum 40 feet each side when abutting a residential use.
      - [2] Minimum 20 feet each side when abutting a commercial or industrial use.
    - (d) Rear yard setback: minimum 50 feet.

- (e) Impervious surface: maximum 50% ratio of the total lot area.

**§ 360-46. UC Upland Conservancy District (for upland areas of environmental corridors).**

The UC District is intended to preserve, protect, enhance, and restore all significant woodlands, areas of rough topography and related scenic areas. Regulations of these areas will serve to control erosion and sedimentation, and will promote and maintain the natural beauty of the Town.

A. Permitted uses.

- (1) Agriculture uses when conducted in accordance with the Washington County Conservation Standards.
- (2) Hunting and fishing.
- (3) Preservation of scenic, historic and scientific areas.
- (4) Forest and game management.
- (5) Park and recreation areas.
- (6) Single-family dwellings with attached or detached garages.
- (7) Home occupations as per § 360-13.
- (8) Bus shelters.
- (9) Group homes for eight or fewer residents.
- (10) The keeping of livestock limited to no more than one livestock unit per two acres.

B. Conditional uses.

- (1) Clustering of homes on one-and-one-half-acre lots. Clustering may be allowed on upland areas of environmental corridors if the effect of allowing clustering would better preserve the resources that are being protected. If clustering is used, the R-1 District standards as to lot size, bulk restrictions, and yard requirements shall apply.
- (2) Mother-in-law suites (annual renewal required).

C. Permitted accessory uses.

- (1) General farm buildings, including barns, silos, sheds, and storage bins.
- (2) Keeping of domestic stock, provided that no more than one animal unit (as defined in the Town of Erin Land Use Plan) is permitted for each two acres.
- (3) Private garages and carports.
- (4) Gardening tool and storage sheds incidental to the residential use.

D. Lot size, bulk restrictions, and yard requirements.

- (1) Lot size:
  - (a) Width: minimum 300 feet.
  - (b) Area: minimum five acres.
- (2) Height:
  - (a) Principal building: maximum 35 feet.
  - (b) Accessory building: maximum 15 feet (except for farm barns and silos).
- (3) Yards:
  - (a) Front setback: minimum 100 feet (from the highway or the road right-of-way).
  - (b) Shore setback: minimum 75 feet.
  - (c) Side yard setback: minimum 50 feet (on each side).
  - (d) Rear yard setback: minimum 50 feet.

**§ 360-47. LC Lowland Conservancy District.**

- A. Intent of zoning district. The use of this zoning district is intended to protect and preserve significant swamps, marshes, bogs and similar wetlands as mapped by the Department of Natural Resources for protection of wildlife habitat, groundwater recharge areas, lowland vegetation and preservation of natural drainage patterns. Wetland areas within 300 feet of a river or stream or within 1,000 feet of a lake are also governed by the Washington County Shoreland Wetland and Floodplain Ordinance. In case of conflict between that ordinance and Town of Erin ordinances, the more stringent of the regulations shall apply.
- B. Determination of district boundaries. The Department of Natural Resources Official Wetlands Map delineates the approximate boundaries of this zoning district. However, since this district is intended to apply to certain wetland areas as they are distributed by nature, questions on final determinations as to the exact location of a Wetland Conservancy District boundary line will be resolved in the field by the Zoning Administrator, taking into account topographical, drainage, soil and vegetative changes on the site in question. The Zoning Administrator may enlist the assistance of professional personnel from other governmental agencies in making such determinations.
- C. Permitted uses.
  - (1) Agricultural uses and structures existing on September 9, 1979.
  - (2) Wild crop harvesting.
  - (3) Nature trails.
  - (4) Forest management practices.

- (5) Wildlife preserves, and fish and game management practices.
- (6) Hunting and fishing, in accordance with all other applicable ordinances and laws.
- (7) Public park and recreation areas, excluding the erection of any buildings.
- (8) Soil and water conservation practices as promulgated by the USDA Soil Conservation Service in its "Technical Guide."

D. Conditional uses.

- (1) Drainage projects and basins.
- (2) Ponds and fish hatcheries.
- (3) Water impoundments, such as water control structures or dams.
- (4) Private recreational facilities such as golf courses, recreational camps, sportsmen's clubs, and similar uses, excluding the erection of any buildings, unless approved by variance.
- (5) Utility transmission lines and related facilities.

**§ 360-48. F-1 Floodland District.**

The Floodland District is intended to preserve in essentially open space and natural use, lands which are unsuitable for intensive development purposes due to poor natural soil conditions and periodic flood inundation, and shall include all land and water area lying within the delineated forecast one-hundred-year recurrence interval flood or as delineated on the Washington County Shoreland-Floodland Map. The proper regulation of these areas will serve to maintain and improve water quality, prevent flood damage, protect wildlife habitat, and prohibit the location of structures on soils which are generally not suitable for such use. Uses within this district shall comply with all provisions of the Washington County Shoreland/Floodland Protection Ordinance.

**§ 360-49. SO Shoreland Overlay District.**

The Shoreland Overlay District is intended to provide for the protection of those lands and uses which lie within the shoreland areas as delineated on the Washington County Shoreland-Floodland Map. All lands within 1,000 feet of a lake and within 300 feet of a navigable stream are included in this district. Uses within this district shall comply with all provisions of the Washington County Shoreland-Floodland Protection Ordinance, in addition to the basic underlying district, whichever is more restrictive.

**§ 360-50. PR Park-Recreational District.** [Added 5-27-1997; amended 12-16-2002 by Ord. No. 02-18]

The Park-Recreational District is intended to provide for areas where the recreational needs of the populace can be met without undue disturbance to adjacent uses. When classified as a Park and Recreation District, the parcel or lot no longer retains any rights

for residential development as described elsewhere in this chapter, unless those rights are expressly preserved pursuant to the terms of a conditional use permit issued pursuant to this section at the time the parcel or lot is classified as a Park and Recreation District. The Park-Recreational District designation shall be applied only to parcels on which one of the permitted or conditional uses is the principal use.

- A. Permitted uses. The following uses are permitted uses in the Park-Recreational District, provided that the underlying lot is publicly owned and the principal uses are operated by a governmental entity:
  - (1) Parks, playgrounds, neighborhood tot-lots, picnicking areas, playfields or athletic fields.
  - (2) Botanical gardens, nature conservancies and arboretums.
  - (3) Outdoor ice skating, sledding, tobogganing, and ski hills (without facilities).
  - (4) Historic monuments or sites.
- B. Conditional uses. All permitted uses, if privately owned, or if operated by a nongovernmental entity, are conditional uses. In addition, the following principal or accessory uses are conditional uses:
  - (1) Hunting and fishing facilities, skeet and trap shooting ranges, and sportsperson facilities.
  - (2) Boat rental and boat access sites, marinas and marine sales and services.
  - (3) Beaches and swimming pools open to the public.
  - (4) Hiking, and nature trails and walks, cross country ski trails, unmotorized bike trails and equestrian trails.
  - (5) Outdoor summer theaters and band shells.
  - (6) Fairgrounds.
  - (7) Campgrounds (rental).
  - (8) Golf courses and golf driving ranges (all types).
  - (9) Snowmobile and minibike trails.
  - (10) Resorts.
  - (11) Ski hills.
  - (12) Zoological gardens.
  - (13) A facility in which a combination of the above permitted or conditional park-recreational uses constitutes the principal or primary use of the property.
  - (14) Buildings or part of a building over 50 feet in height.
  - (15) Accessory uses to the principal uses (which are not, in and of themselves, a

principal or primary use) shall include:

- (a) Bathhouses and locker rooms.
- (b) Equipment storage facilities.
- (c) Pavilion, clubhouse, and rest room facilities.
- (d) Parking associated with park and recreation activities.
- (e) Restaurants and food service facilities.
- (f) A residence for a caretaker or on-site manager.
- (g) Conference, banquet, and meeting facilities.
- (h) Shops associated with ski hills and golf courses.
- (i) Signs and monuments.
- (j) Lodging facilities.

C. Lot size, bulk restrictions and yard requirements.

- (1) Lots shall provide sufficient area for the principal structure or use and accessory structures, off-street parking and loading, the disposal of sanitary waste, and required yards.
- (2) No building or part of a building shall exceed 50 feet in height unless permitted by a conditional use permit.
- (3) No maximum or minimum building area shall be required in the Park-Recreational District due to the variety of uses within this district and the diverse building demands of each use.
- (4) Yards.
  - (a) Front yard setback: not less than 100 feet from the center line of the road or 50 feet from the right-of-way line, whichever is greater.
  - (b) Shore yard setback: not less than 75 feet from the ordinary high water mark of any navigable water.
  - (c) Side yard set back: not less than 30 feet in width on each side of all structures.
  - (d) Rear yard set back: not less than 40 feet.
- (5) Authorized sanitary sewer systems. On-site sewage disposal absorption system or holding tank.

**§ 360-51. I-1 Institutional District.** [Added 2-15-1999 by Ord. No. 99-04]

- A. Purpose and characteristics. The I-1 Institutional District is intended to provide for areas where the predominant use is community institutional, consisting of those

public-serving institutions that provide for the governmental, religious, educational, health, and utility interests of the community within the Town of Erin or the Town and its surrounding region.

- B. Principal uses (see also Subsection D below for identification of elements of principal uses that require conditional use approval).
  - (1) Schools (K-12 only) operated by public school districts.
  - (2) Governmental public service facilities, including public works facilities, public safety (police, fire and emergency medical) facilities, community centers, emergency shelters.
  - (3) Offices and facilities of public utilities recognized as such and regulated as to rates and service by the Public Service Commission of Wisconsin.
- C. Accessory uses.
  - (1) Garages for storage of vehicles used in conjunction with the operation of the principal use.
  - (2) Service buildings and facilities normally accessory to the principal uses.
- D. Conditional uses (see also Article VIII).
  - (1) Hospitals, sanitariums, medical clinics, community-based residential facilities providing medical care, assisted living centers.
  - (2) Churches, traditional libraries, museums and art galleries
  - (3) Schools and educational facilities operated other than by public school districts for a K-12 and above clientele and institution of higher learning.
  - (4) Day care and preschools operated in other than residentially occupied dwelling units.
  - (5) Activities associated with the principal uses or conditional uses in Subsection D(1) through (4) above, established to complement/support the principal or conditional use, including but not limited to:
    - (a) Festivals and other support-generating (financial and otherwise) facilities or activities, including bingo programs, carnivals, art and craft shows and the like.
    - (b) Day care (any age) and preschools.
    - (c) Senior centers.
    - (d) Temporary or permanent public food service.
    - (e) Governmental administrative offices, retreat centers, with or without lodging.
    - (f) Gymnasiums, swimming facilities and play fields.

- (g) Cemeteries.
  - (h) Utility substations.
  - (i) Water storage tanks and towers and radio and television transmitting and receiving towers, microwave relay stations.
  - (j) Commercial telecommunication facilities.
  - (k) Wind energy conversion systems. See § 66.0401, Wis. Stats.<sup>9</sup>
- (6) Additions, expansions, alterations or rebuilding of facilities on parcels not fully satisfying the requirements set forth in this chapter for lot area and width and related matters, when the parcel was occupied by a use that is legal in this district on a permitted, accessory or on conditional use or nonconforming use basis as of the date of enactment of this district (February 15, 1999).
- E. Lot area and width.
- (1) Lot size, bulk restrictions, authorized sewage system.
    - (a) Lot area: minimum lot area of 40,000 square feet.
    - (b) Width: minimum lot frontage of 150 feet.
    - (c) Height. No building or parts of a building shall exceed 60 feet in height; provided, however, that this requirement is not imposed upon church steeples, water, TV and radio towers.
    - (d) Building area and authorized sewage system. No maximum or minimum building area shall be required in the I-1 Institutional District due to the variety of uses within this district and the diverse building demands of each use.
      - [1] On-site sewage disposal absorption system.
      - [2] Holding tank.
  - (2) Yards.
    - (a) Street/front. Street yard: not less than 50 feet from the right-of-way of all federal, state and county trunk highways and not less than 50 feet from all other roads.
    - (b) Side: not less than 10 feet in width on each side of all structures.
    - (c) Rear: not less than 25 feet.
    - (d) Shore: not less than 75 feet from the ordinary high water mark of any navigable water.
  - (3) Accessory buildings: to be considered by conditional use permit.

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<sup>9</sup>. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (4) Outdoor storage: to be considered by conditional use permit.

**§ 360-52. Single-family cluster subdivision.**

A. Purpose and intent.

- (1) It is the purpose and intent of this section of the Town of Erin Land and Subdivision Development Ordinance to enhance community character through the preservation of open space within residential developments; minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures; provide an interconnected network of permanent open space; encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation; permit clustering of houses and structures which will reduce the amount of infrastructure, including paved surfaces and utility lines; and provide flexibility for creativity in developments.
- (2) This district is intended to provide for the development of agricultural and other open space at least 40 acres (or a quarter-quarter, whichever is smaller) in area into single-family residential lots and subdivisions at a gross density that does not exceed one dwelling unit per five or seven acres (subject to local density requirement).

B. Permitted principal uses.

- (1) Single-family dwelling units with attached or detached garages.

C. Conditional uses.

- (1) Other agricultural or recreational uses occurring on open space areas or outlots requiring the installation of buildings, structures, or other facilities, or grading or other land disturbing activities resulting in a total amount of land disturbance greater than the maximum allowed in this district. These uses are permitted only with permission of the Town Board.
- (2) Commercial storage contained within barns or other agricultural structures existing on the effective date of this section, in order to provide for an adaptive and compatible reuse or promote the preservation of such structures.
- (3) Home occupations as provided for in Chapter 360, Zoning.
- (4) Mother-in-law suites (annual renewal required).

D. Parcel size and lot size.

- (1) The development of individual residential lots shall be limited to parcels within this district that are not less than 40 gross acres (or a quarter-quarter section, whichever is smaller).

- (2) Lot sizes may vary between a minimum of 1.5 acres and a maximum of three acres.

E. Required Buffer Yards: Building setbacks, yards, building coverage, and lot disturbance. A minimum two-hundred-foot setback or buffer yard is required between the right-of-way lines for all state, county and existing Town roads and the nearest property line of all proposed lots.

- (1) Provide a perimeter buffer not less than 50 feet in width between residential lots within the subdivision and adjoining property.
- (2) Provide a minimum open space buffer not less than the following between the nearest property lines for any residential lot and the perimeter boundary of all wetlands currently inventoried and designated by the Wisconsin Department of Natural Resources (DNR), Army Corps of Engineers (ACOE), and/or Wisconsin Natural Resources Conservation Service (NRCS):

[a] Isolated wetlands: 50 feet.

[b] Connected wetlands: 75 feet.

F. Open space requirements.

- (1) Area not designated as a residential lot or right-of-way shall be preserved as an outlot designated, dedicated, reserved, or restricted for public or private use or enjoyment by property owners and/or occupants of adjoining land.
- (2) Open space areas shall be comprised of:
  - (a) Undevelopable and indivisible outlots owned in equal undivided interest by the owners of the other lots or parcels within the subdivision plat or certified survey map (CSM) as tenants in common (see Subsection G, Open space area ownership and maintenance requirements, herein) and designated as such on the subdivision plat or certified survey map (CSM) for the parcel being developed and in the deed of conveyance for each lot or parcel; and/or
  - (b) Portions of lots or parcels under individual ownership within the development that are deed restricted against further development, division and for perpetual open space or natural resource protection, agricultural, and/or recreation use, provided:
    - [1] Two acres of open space shall be created for each dwelling unit, exclusive of the lot.
    - [2] Said deed restricted open space areas shall not include those portions of a lot or parcel required for yards or building setbacks;
    - [3] The allowance for open space areas on individual lots or parcels is proposed to accommodate an agricultural operation or activity or a recreational use.

- G. Open space area ownership and maintenance requirements.
- (1) Open space areas may be dedicated to and accepted by the Town if said open space areas are contained in an adopted park/open space/conservancy plan.
  - (2) Unless otherwise dedicated to the Town for public use as required herein, all open space areas counted toward the satisfaction of the minimum open space requirements shall be subject to conservation and/or other open space preservation easements regulating the protection of said open space areas from further development and/or division. Such easements shall be reflected on the subdivision plat or certified survey map (CSM) and contained in a restrictive covenant or other legal instrument reviewed and approved by legal counsel for the Town. Said instruments shall ensure that all such easements are held privately and in perpetuity by the individual property owner and a nonprofit membership corporation or other legal entity, e.g., homeowners' association, and that the developer, individual property owner, or other legal entity is responsible for the ownership, perpetuation, care, and maintenance of all such open space areas.
  - (3) Said instrument shall legally describe and identify as to location, size, and use of the open space area(s) subject to the conservation or other open space preservation easement, compulsory membership and compulsory assessment provisions for all property owners within the subdivision (when applicable) for the perpetual care and maintenance of said open space area(s).
  - (4) Once a legal instrument for permanent protection has been placed upon the open space, the Town of Erin Tax Assessor shall reassess the value of the open space according to state classifications with the limitation of the development restrictions in mind.
- H. Cluster development design criteria. The design and layout of residential lots or parcels and open space outlots should to the greatest extent possible satisfy the following:
- (1) Individual lots, parcels and outlots shall be designed and arranged to minimize the destruction or alteration of natural resource features located within the parcel(s) proposed for development. In order of priority, open space outlots should include the following natural resource, open space and agricultural features in whole or in combination in order to maximize preservation of the Town's rural character:
    - (a) Lakes, ponds, rivers, streams, wetlands, shorelands and floodplains.
    - (b) Woodlots and forests.
    - (c) Steep slopes (greater than 12%).
    - (d) Other areas located within environmental corridors as designated on the Town's Land Use Plan Map.
    - (e) Other areas comprised of wet, poorly drained and organic soils.

- (f) Prairies.
  - (g) Primary, secondary and other farmlands as designated in the Washington County Farmland Preservation Plan.
  - (h) Other drainage and stormwater facilities.
- (2) Open space areas should be designed and arranged as contiguous areas.
  - (3) Open space areas to be owned in common by all lot owners within the development should be designed and arranged to:
    - (a) Provide for the continuation between existing and future open space areas on adjoining properties.
    - (b) Provide at least one pedestrian-type accessway or easement from each public subdivision street to each open space area within the development that is not less than 30 feet in width.
    - (c) Provide a minimum open space buffer not less than 200 feet in width between the nearest property line for any residential lot and all state, county and existing Town roads.
    - (d) Minimum width of common open space shall be 50'.
  - (4) Residential lots should be arranged within the parcel(s) being developed in order to:
    - (a) Minimize potential conflicts with adjoining agricultural uses and operations.
    - (b) Minimize the number of abutting residential lots so that no more than two lots abut any other lot.
    - (c) Ensure that individual lots abut an open space and that every lot shall abut an open space for an uninterrupted distance no less than 50' excluding internal pedestrian way described above.
  - (5) Individual lots, parcels and outlots should be designed and arranged to minimize the amount of land required for additional public roads while providing for the future extension of public streets to adjoining vacant land.
  - (6) Roads within the subdivision will all be public roads and must meet Town specifications or engineered equivalency. The Plan Commission would have the ability to modify road widths within the cluster subdivision.
  - (7) Culs-de-sac. Consistent with the design and layout of cluster subdivisions, the length of culs-de-sac may only exceed the maximum allowable length as referenced in Street Design 235-33, with the approval of the Plan Commission and the Town Board.
- I. Incentives. Developers who opt to develop a cluster subdivision would be granted a

density bonus of 10% (rounded to the nearest whole number), equivalent to a minimum of one additional lot that could be created from a given parcel that meets the minimum-size requirement (forty acres or a quarter-quarter, whichever is smaller).

J. Application process.

- (1) Preapplication meeting with the Town's Zoning Administrator to discuss the property subject of the proposed development, the Town's zoning requirements, the review process and fee schedule, as well as other review agencies and their review and approval requirements.
- (2) The developer should come to this session with a very rough sketch plan.
- (3) Site resource inventory prepared by developer. This should include generalized soil types, designated wetlands, steep slopes, topography, environmental corridors, existing roads, easements, significant historic, architectural features, unique land features, etc.
- (4) Do a site walk with as many of the following officials who can attend a scheduled "walkabout" at an assigned date and time: Town Board, Plan Commission, Town Planner/Engineer, DNR official, County Planner, DOT/Highway, SEWRPC. The purpose of this "walkabout" is to familiarize the staff with the subject property and to identify any features, characteristics or issues that may need special attention or study as the application process proceeds.
- (5) Presubmittal conference between developer and Zoning Administrator. Following completion of the above, the plan may be submitted to the Plan Commission for conceptual approval. A public hearing is scheduled at this stage.
- (6) Covenant restrictions pertaining to the outlot shall be submitted to the Plan Commission and Town Board for review and approval.

K. Ownership. Each lot shall have an undivided fractional interest in the open space, the numerator of which shall be one and the denominator of which shall be the total number of lots in the declaration. All deeds and other conveyances of any lot shall be deemed to include such undivided interest in the open space.

L. Duties and responsibilities of the association.

- (1) The duties and responsibilities of the association shall be as follows:
  - (a) To provide for the maintenance of the improvements in the open space, including the stormwater management and drainage facilities located within the open space. This work shall be performed in accordance with written guidelines and standards established by the developer, as well as generally accepted sound maintenance practices.
  - (b) To establish rules and regulations governing the use and enjoyment of the open space.

- (c) To enforce the provisions of the subdivision declaration.
- (d) To grant utility and drainage easements.
- (e) To levy and collect assessments, with each owner paying a pro rata share of the total.

(2) The association agreement will be enforced by the Town, if needed, and any expenses billed back to the property owners.

## ARTICLE VI Zoning Amendments

### **§ 360-53. Statutory procedures.**

The Town of Erin Zoning Ordinance may be amended pursuant to procedures provided by Wisconsin Statutes.

### **§ 360-54. Petitions.**

Petitions to amend the Zoning Ordinance may be initiated by any Town board, committee, commission or officer. Petitions to amend zoning districts may, in addition, be initiated by any person owning real estate, provided that the proposed amendment affects real estate owned by such person or a larger area that includes real estate owned by such person.

### **§ 360-55. Application forms.**

The Plan Commission shall direct that application forms for Zoning Ordinance amendment petitions be developed and approved by the Commission and that such, or close equivalents, shall be used to initiate amendment petitions.

### **§ 360-56. Introduction and referral of petitions.**

All petitions for amendment shall be introduced to the Zoning Administrator and referred to the Plan Commission with information notice of the introduction and referral being given by the Administrator to the Town Board.

### **§ 360-57. Public hearing.**

The Plan Commission shall establish a date for public hearing before the Plan Commission on all proposals for zoning amendments. Class 2 notice shall be given prior to such hearing. At least 10 days' prior written notice shall be given to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by a proposed change in zoning district boundaries. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the change, if adopted. The public hearing shall be conducted by the Plan Commission in accord with the notice, unless recessed and rescheduled in accord with state law.

**§ 360-58. Notice to property owners.**

At least 10 days' prior written notice shall be given by ordinary mail to owners of record of all lots or parcels within 1,000 feet of the property.

**§ 360-59. Protest petitions.**

Protest petitions may be lodged regarding amendments to Zoning District Maps in accord with provisions of state law [§ 62.23(7), Wis. Stats.].

**§ 360-60. Recommendation of Plan Commission.**

Following the public hearing, the Plan Commission shall issue its recommendations on the proposed amendment to the Town Board. The Plan Commission hearing and issuance of the recommendations shall occur within 60 days of referral of the matter to the Plan Commission. Failure of the Plan Commission to act within 60 days shall allow the Town Board to proceed with the hearing and action.

**§ 360-61. Action on petition by Town Board.**

Following receipt of the recommendations and report of the Plan Commission, the Town Board shall take action upon the proposed amendment.

**§ 360-62. Imposition of conditions.**

Where allowed by Wisconsin zoning law, rezonings may be conditioned where the Town Board deems imposition of conditions a necessity to achieve the public interest and the intent of this chapter.

ARTICLE VII  
**Conditional Uses**

**§ 360-63. Identification and purpose.**

This chapter identifies certain uses of property within each zoning district as conditional uses. Applications to establish or modify such uses shall be decided pursuant to this article as a matter of discretionary judgment, upon consideration of the specific proposal in relation to the site, uses of neighboring properties, area conditions, and the provisions of the Land Use Plan. Approval of conditional uses shall be accompanied by conditions established by the Plan Commission. Conditional uses are not "as of right" uses. It is within the power of the Plan Commission to determine that there are no conditions which would allow a use to coexist with its neighbors.

**§ 360-64. Procedures.**

- A. Applications for conditional use approval shall be made on application forms developed and approved by the Plan Commission.
- B. An application fee, as established by the Town Board in the Town Fee Schedule, shall be paid at the time an application is filed and shall not be refundable unless the

application is withdrawn prior to consideration by the Plan Commission. Applications originated by the Town shall be exempt from application fee.<sup>10</sup>

- C. A conditional use application that has been rejected shall not be accepted for resubmittal within six months from the date of rejection, unless the Plan Commission determines that there has been a significant change in the proposal or in relevant conditions.
- D. When the Town Clerk has received a complete application, and the application fee, and when the staff has completed such research and staff review as the Plan Commission has directed be applied to such applications, the application and related file shall be transmitted to the Plan Commission for its review and consideration.
- E. The Plan Commission shall establish a date for public hearing before the Plan Commission on all proposals for conditional use approvals. Class 2 notice shall be given prior to such hearing. Notice of the public hearing shall be mailed to all owners of record of lots or parcels within 1,000 feet of the property, except as may be extended or expanded otherwise at the discretion of the Zoning Administrator and/or the Plan Commission. The public hearing shall be conducted by the Plan Commission in accord with the notice, unless recessed and rescheduled in accord with state law.
- F. The Plan Commission may recommend, or recommend with modifications, a conditional use application, provided that such conditional uses are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or community. The decision of the Plan Commission shall be recorded in the minutes and shall contain a written statement of reasons with reasons specifically related to the standards of this chapter or of documents related to this chapter by cross-referencing provisions. Following receipt of the recommendations and report of the Plan Commission, the Town Board shall take action upon the proposed conditional use permit.
- G. Adopted motions to approve conditional uses shall include identification of conditions. These conditions may address the site plan, timetable of development, operation of the proposed use, surety requirements for performance of required activities, or other considerations relevant to applicable standards. All such conditions shall be recorded in the minutes, in correspondence sent to the applicant and other parties of interest, and may, at the discretion of the Plan Commission, be recorded in legal documentation filed in relation to the property at the Washington County Register of Deeds. All such conditions shall be fully binding upon the property as if they were specific terms of this chapter.
- H. A decision of the Plan Commission in granting or denying a conditional use may be

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10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

appealed to the Town Board. Applications for such appeals shall be signed by the applicant or by persons who would have protest petition rights under § 62.23(7), Wis. Stats., were the matter one of rezoning, or by any Town Board member. Such application for appeal shall be filed within 10 days of the date of the Plan Commission action. Upon such a filing, the entire Plan Commission file shall be submitted by Commission staff to the Town Clerk for transmittal to the Town Board, and all Plan Commission minutes on the matter shall be reproduced and sent to members of the Town Board. The matter shall be placed on the agenda of the Town Board. The Town Board may deal with the matter with or without a public hearing, at its discretion. The Town Board may either affirm, reverse or modify the action of the Plan Commission. In making its determination, the Town Board shall be guided and controlled by § 360-63 of this article.

- I. Where an approved conditional use contemplates construction or erection of buildings and structures, failure to commence such construction within six months after the approval of a conditional use shall render the approval void unless otherwise noted. Upon timely application and for good cause, the Plan Commission may grant specified extensions.

## ARTICLE VIII Board of Adjustment <sup>11</sup>

### **§ 360-65. Composition; terms.** [Amended 9-17-2001]

The Board of Adjustment shall consist of five members appointed by the Town Chair and approved by the Town Board. No more than one of those members may be a Town Supervisor. The terms of the members are three years after initial periods of one, two and three years appointed respectively. All members of the Board must be Town residents and serve until a successor is appointed. The Board shall choose its Chairperson.

### **§ 360-66. Functions of Board of Adjustment.**

Functions of the Board of Adjustment shall be to hear and decide applications for variances under this chapter and to hear and decide applications for appeal of administrative interpretations.

### **§ 360-67. Public hearings; notice.**

The Board of Adjustment shall conduct a public hearing on all administrative appeals, variances and other decision matters before it and shall cause a Class 2 notice under Ch. 985, Wis. Stats., to be published and shall give due notice of the hearing to all parties in interest, including all lands within 1,000 feet of the parcel at issue.

### **§ 360-68. Appearance at hearings; testimony.** <sup>12</sup>

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11. Editor's Note: In this article and throughout this chapter, all references to "Zoning Board of Appeals" were amended to refer to "Board of Adjustment" at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

The Chair may administer oaths to parties testifying and may compel attendance of witnesses. All testimony before the Board of Adjustment by persons other than Board of Adjustment members and all documentary evidence or material pertaining to matters before the Board of Adjustment shall be received at hearings conducted by the Board of Adjustment, provided that the content of relevant ordinance or statutory materials shall be deemed to be before the Board of Adjustment in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so received. Board of Adjustment members who are in possession of facts that may have a bearing on the matter before the Board of Adjustment shall enter same into the record of the hearing and opportunity shall be allowed for comment on such entries. Any party may appear in person or by agent at such hearing.

**§ 360-69. Deliberations and decisions.**

The Board of Adjustment shall deliberate on matters before it. The concurring vote of four members of the Board of Adjustment shall be necessary to approve any appeal, variance or other decision matter before the Board of Adjustment. The vote of each matter decided by the Board of Adjustment shall be recorded in the minutes. If a member is absent or if a member fails to vote, such facts shall similarly be recorded. The minutes of the Board of Adjustment shall show the Zoning Board of Adjustment's decisions and the votes of members thereon. Each decision of the Board of Adjustment shall be accompanied by written reasons in support of the decision. All decisions shall be made in strict accordance with the standards of this chapter, state statute and the Board of Adjustment shall decide all matters before it within a reasonable time. Minutes of the Board of Adjustment deliberations shall be presented to the Chairman or presiding officer for concurrence prior to filing in the record.

**§ 360-70. Appeals of interpretations of Zoning Administrator to Board of Adjustment; administrative appeals.**

- A. Appealable matters. Decisions by the Zoning Administrator that consist of interpretations of the terms of this chapter and that are made in the course of determining whether a permit or approval will be issued by the Administrator are appealable to the Board of Adjustment as administrative appeals. Decisions by the Zoning Administrator to issue an enforcement demand or to commence other enforcement activities, where the Administrator has determined that a violation of this chapter exists, are appealable to the Board of Adjustment as an administrative appeal.
- B. Procedures for initiating an administrative appeal.
  - (1) Eligible appellants. Administrative appeals may be initiated by any person aggrieved by the decision or interpretation being appealed, or by any officer, department or board of the Town government.
  - (2) Time for appeals. An appeal shall be commenced within 30 days after decision or interpretation was made.
  - (3) Initiating an appeal. An appeal may be commenced by filing with the Town

Clerk a notice of appeal identifying the decision being appealed, the grounds for the requested relief and payment of applicable fees. Upon receipt of such a notice, the Town Clerk shall notify the Board of Adjustment and shall transmit to the Board of Adjustment all papers and files which constitute the record of the decision being appealed.

- (4) Stays. An appeal of a decision to issue a permit or approval or to issue an enforcement demand or to commence other enforcement proceedings shall cause the permit or approval action to be suspended or shall stay further enforcement prosecution unless the Zoning Administrator or Town Attorney files with the Board of Adjustment a certificate, supported by a statement of facts, alleging that suspension or stay will cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed except upon a restraining order issued by a court or the Board of Adjustment.
- (5) Decisions of the Board of Adjustment. Following the procedures specified in § 360-71, the Board of Adjustment shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, or may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. Decisions by the Board of Adjustment on administrative appeals shall be based upon the terms of this chapter and evidence as to legislative intent.

#### **§ 360-71. Variances.**

- A. Initiating a request for variance. Applications for variances in zoning regulations may be filed by any party having a property interest in the property in question, along with payment of the applicable fee, to the Town Clerk. The Clerk shall transmit the application to the Board of Adjustment. It may be required that the applicant stake his property, locating property pins for verification of property lines or a certified map of buildings or property lines be completed by a registered land surveyor.
- B. Review and decision. Following a public hearing and other investigations, including review of Plan Commission recommendations, if available, the Board of Adjustment shall decide the matter based upon the following standards:
  - (1) No variance may be granted that would have the effect of allowing a use of land or property that would violate state law or administrative rules.
  - (2) To grant a variance, the Board of Adjustment must find that the variance will not be contrary to the public interest where, owing to special and peculiar conditions, applicable only to the specific property in question, a literal enforcement will result in exceptional practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done.

- (a) Exceptional practical difficulty and unnecessary hardship shall be construed as a whole, with no distinction made.
  - (b) When considering a dimensional standard variance that will not involve a significant change in the character district, the hardship/difficulty test is whether compliance with the strict letter of the restrictions on lot area, setbacks, frontage, height, lot area coverage or occupancy or density would unreasonably prevent the owner from using the property for an allowed purpose or would render conformity unnecessarily burdensome.
  - (c) When considering a dimensional variance that would, if approved, cause significant change in the character in the district, the hardship/difficulty test is whether, in absence of approval, no feasible use can be made of the property.
  - (d) Use variances (variances allowing a use not specified for that district by this chapter) are not permitted.
  - (e) Consideration shall be given to those variances that are requested to accommodate Universal Design and are equally accessible to the able-bodied and the physically disabled.
- (3) The granting of a variance to construct a building or structure or other use shall expire within six months after the decision of the Board of Adjustment unless a permit has been issued or the use has commenced.<sup>13</sup>

ARTICLE IX  
**Airports**

**§ 360-72. Airports and aircraft landing strips, including those used by ultralight aircraft.**

- A. Where permitted. Airports shall be a prohibited use in all districts.
- B. Additional nonconforming circumstances. Airports and aircraft landing strips that were in operation on December 4, 1989, and have remained in operation continuously since that time (with no gaps of more than 12 months), regardless of whether the operation held a WisDOT site certification pursuant to § 114.134, Wis. Stats., on December 4, 1989, or subsequently, shall be granted conditional use approval upon application by the site owner. The owner's application shall include an affidavit establishing eligibility (continuous operation since 1989), and an identification of all applicable state and federal regulations and state site certification. The only applicable condition on the conditional use shall be compliance with state and federal requirements. Applicant must apply to Wisconsin DOT by December 31, 1992, and must have submitted affidavit by December 31, 1992. Conditional use expires with sale of property.

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<sup>13</sup> Editor's Note: Original Section 10.00, Dog and Horse Boarding, which previously followed this section, was removed from this chapter and included as Ch. 145, Animals, Art. I, Dog and Horse Boarding. Ordinance No. 03-08, adopted 7-21-2003, amended this article to include provisions regarding affirmative conclusions prior to granting variances and an additional function of the Board regarding minor impact exceptions. Ordinance No. 03-08 stated that those provisions shall expire within one year unless extended by resolution; no such resolution was enacted, and Ord. No. 03-08 expired.

ARTICLE X  
**Administration**

**§ 360-73. Zoning Administrator.** [Amended 9-20-2004 by Ord. No. 04-06]

- A. A Zoning Administrator shall be designated through Town personnel procedures. The Town Clerk shall assist the Zoning Administrator in recordkeeping responsibilities.
- B. Duties.
  - (1) The Town Clerk shall be responsible for keeping all records of applications received, Commission, Board, or office actions on such applications, permits issued, inspections made, and enforcement actions undertaken.
  - (2) The Town Clerk shall receive applications under this chapter and shall process the applications and collect and dispose of these in accordance with the Town ordinances and administrative procedures. The Town Clerk shall forward all applications to the Zoning Administrator.
  - (3) The Zoning Administrator shall make such inspections of premises as are required, to determine compliance with the terms of this chapter.
  - (4) The Zoning Administrator shall make those administrative decisions and determinations required for the administration of this chapter.
  - (5) The Zoning Administrator shall, upon general or specific request of the Plan Commission, Board of Adjustment, Town Board, or other officer, issue reports, and make recommendations on matters that come before such Boards, Commissions, or officer.
- C. Authority.
  - (1) In the enforcement of this chapter, the Zoning Administrator shall have the power and authority of the following:
    - (a) At any reasonable time, and for any proper purpose, to enter upon any public or private lands to make an inspection thereof. This only confers on the Zoning Administrator the power to enter upon lands. Consent of the owner/occupant is necessary to enter any structure to make an inspection thereof. If consent is not given, and an inspection by the Zoning Administrator is necessary in performance of duties, the Zoning Administrator may petition a court of competent jurisdiction to obtain a warrant to inspect the premises.
      - [1] The Zoning Administrator will initiate an investigation only on the basis of a written complaint.
      - [2] Citizens will not initiate a complaint solely to annoy, harass, or intimidate others.
      - [3] Upon investigating a complaint, the Zoning Administrator has the legal authority to be on the property to investigate said complaint

based on Subsection C(1)(a). The Zoning Administrator will first attempt to make contact with the property owner. If the owner is not able to be contacted, and the Zoning Administrator has a reasonable suspicion to believe that there is a violation, based on his/her viewing the alleged violation from a public place, or the property's driveway, then an inspection may be made. If there is no reasonable suspicion, then contact must be made with the property owner. If contact is not made, and an inspection is necessary, a warrant of inspection may be obtained, but the burden of providing evidence of a violation is on the complainant.

- (b) Upon reasonable cause or question as to proper compliance, to revoke any zoning or occupancy and CUP and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter. Such revocation shall be in effect until reinstated by the Zoning Administrator or Board of Adjustment.
- (c) To refer to the Town Attorney for advice and commencement of any legal proceedings necessary to enforce the provisions of this chapter. The collection of forfeitures provided herein shall occur through established procedures in Town ordinances and the court of jurisdiction. The issuance of citations provided for under this chapter shall not require such referral and may be issued by the Zoning Administrator directly.

**§ 360-74. Permits.**

- A. Certain development activities and occupancies shall require application for and issuance of a permit in order for them to be legally established. The Plan Commission is hereby delegated the authority to promulgate permit requirements, to establish forms for permit applications and the permit forms themselves.
- B. Failure to obtain a required permit before development is a violation of this chapter.
- C. Issuance of a permit authorizes only the development or occupancy set forth in approved plans submitted as part of a permit application and no other development or occupancy. Issuance of a permit creates no liability on the part of the Town or its issuing officers and does not limit the right of the Town to change ordinance requirements.
- D. All permits carry the condition that damage to public roads as a consequence of construction it to be avoided and the permit holder is obligated to restore damaged public roads to their normal acceptable condition at permit holder's expense. The construction clean up bond of \$200 may be used to pay for repairs and restoration of road, as well as other money paid by the permit holder.
- E. Permit fees. Fees required under this chapter shall be as set forth on the Town Fee

Schedule.<sup>14</sup>

- F. Applications for permits by the Town Board, Plan Commission or Board of Adjustment shall have the fee requirements waived.
- G. Fees are due and payable upon application and are not refundable.

**§ 360-75. Plan Commission duties, composition and appointment.** [Added 5-21-2001 by Ord. No. 01-05]

- A. The Erin Town Board shall appoint a Plan Commission to act on all matters pertaining to Town planning and zoning pursuant to §§ 60.61(4) and 62.23, Wis. Stats.
- B. The Commission shall be composed of seven members. The Town Chair shall be a member of the Plan Commission and shall be its Chairperson. The other six members shall be appointed by the Town Chair with the approval of the Town Board, and may include Town elected or appointed officials. The Commission shall have a minimum of three citizen members who are not Town officials or employees. [Amended 6-18-2001]
- C. The terms of the members (excluding the Town Chair) shall be for three years until a successor is appointed and approved. The Town Chair shall serve as long as that person is the Chair.
- D. Duties.
  - (1) To oversee the Town zoning ordinances and recommend to the Town Board any proposed amendments or changes to those ordinances.
  - (2) To oversee the Office of Zoning Administrator and recommend appointment of the Zoning Administrator, Land Use Planner and Deputy Zoning Administrator to the Town Board.
  - (3) To examine and approve land divisions and plats of subdivisions within the jurisdiction of the Town.
  - (4) To coordinate any preservation programs or other land divisions or land use programs and recommend approval to the Town Board.
  - (5) To receive referrals pursuant to § 62.23(5) and (6), Wis. Stats., or otherwise, and make reports upon the following matters: The location and architectural design, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alleys or other public way, park, playground, airport, parking areas, or memorials or public grounds; the location, extension, abandonment or authorization for any public utility; review for approval plats of land or certified survey maps within the Town limits or within extraterritorial platting jurisdiction; act on amendments or repeal of any zoning or official map ordinance. Any referrals and reports

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14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

under this section are in addition to zoning/design reviews under other provisions of this chapter.

- E. Additional duties and responsibilities. The Plan Commission shall have such powers under Wisconsin Statutes or Town ordinances as may be necessary to enable it to perform its function and promote municipal planning, including making reports and recommendations regarding land use policy, planning and development of the Town to the public, agencies, utility companies, civic and educational organizations and citizens. Additionally, perform all planning and zoning-related functions required by Wisconsin Statutes and the Town Code regarding a Master Plan for the physical development of the Town of Erin, Erin's lands, Erin's waters, location of public buildings as well as location, architectural design of any public buildings and the sale or acquisition of any public or park land and make inspection of property deemed necessary by the Commission so as to help the Commission to perform the duties under Wisconsin Statutes and this code.

**§ 360-76. Enforcement.** [Amended 9-20-2004 by Ord. No. 04-06]

A. Bond.

- (1) The Plan Commission may require that a performance bond or letter of credit be obtained for the benefit of the Town and filed with the Town so as to insure compliance with the terms of this chapter or a permit. In setting the amount of bond or letter of credit, consideration should be given to:
  - (a) The purpose of the bond or letter of credit;
  - (b) The use to which any forfeited money is to be applied; and
  - (c) The time when it may be applied and any increased costs due to time or inflation that may be incurred by the Town in the event of noncompliance with this chapter or the terms of a permit or that may be incurred for purposes of rehabilitation at some time in the future.
- (2) The amount of the bond may be subject to further review. Failure to obtain or maintain such bond or letter of credit shall invalidate any permit.

B. It shall be unlawful for any person, firm, company, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist enforcement of any provision of this chapter, or any lawful order issued by the Town.

C. It shall be unlawful to construct, erect, place, move, or structurally alter any structure; or develop or use any land, water or air in violation of the provisions of this chapter or any lawful order issued by the Town.

- (1) Compliance with the provisions of this chapter may also be enforced by injunction order at the suit of the Town or one or more owners of real property situated within an area affected by regulations of this chapter. It shall not be necessary to prosecute for fine or imprisonment before resorting to injunction proceedings.

- (2) Declared nuisances. Any building or structure erected, structurally altered or placed on a lot, or any use carried on in violation of the provisions of this chapter is hereby declared to be a nuisance per se, and the Town may apply to any court of competent jurisdiction to restrain or abate such nuisance.
- (3) Enforcement by citation. The Town elects to use the citation method of enforcement under § 66.119, Wis. Stats., for violations of this Code of Ordinances, including those for which a statutory counterpart exists.
  - (a) Any authorized Town official is empowered to enforce this chapter.
  - (b) Issuance of citations is governed by Chapter 17, Citations, § 17-4.

**§ 360-77. Violations and penalties.** [Amended 9-20-2004 by Ord. No. 04-06]

- A. Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be subject to a forfeiture of not less than \$30 nor more than \$1,000 for each offense, together with the cost of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Washington County for a period not to exceed six months or until such fine and the subsequent costs have been paid.
- B. Each day that a violation is permitted to exist shall constitute a separate violation and shall be punishable as such. \_\_\_\_\_

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