

R E S O L U T I O N

No. 002

DATE: 12/20/22

To The Board of Supervisors of Winnebago County, Wisconsin:

AMENDATORY ORDINANCE 12/02/22

WHEREAS, it is desirable to amend the Zoning Ordinance of the Town of Nepeuskun in accordance with the petition of the Town Board.

WHEREAS, the Winnebago County Planning and Zoning Committee has reviewed said amendments, has found no conflicts with county zoning jurisdiction or regulatory authority with them, and is hereby submitting those amendments of the Chapter 5 - Chapter 13 Municipal Code to the Winnebago County Board of Supervisors for final approval; and

WHEREAS, said amendments to the Town of Nepeuskun Chapter 5 - Chapter 13 Code are hereby attached and available on the County Clerks website.

www.co.winnebago.wi.us/county-clerk/meetings

AND BE IT FURTHER RESOLVED, by the Winnebago County Board of Supervisors that the enclosed Ordinance is hereby **ADOPTED** OR **DENIED**.

County Board Supervisor
(Town of Nepeuskun)

COUNTY DISCLAIMER:

County Board approval does not include any responsibility for County liability for the legality or effectiveness of the Town Zoning Amendment or the Town Zoning Ordinance.

APPROVED BY WINNEBAGO COUNTY EXECUTIVE THIS _____ DAY OF _____,
2022.

Jon Doemel – County Executive

CARY A. ROWE
Zoning Administrator

112 OTTER AVE., PO BOX 2808
OSHKOSH, WISCONSIN 54903-2808

OSHKOSH (920) 232-3344
FOX CITIES (920) 727-2880
FAX (920) 232-3347

zoningdepartment@co.winnebago.wi.us



Winnebago County

Zoning Department

The Wave of the Future

MEMO FOR P & Z PLANNING MEETING AGENDA OF DECEMBER 2, 2022

TO: Planning & Zoning Committee

FM: Zoning Administrator 

RE: Review of Town of Nepeuskun Zoning Ordinance Amendments

1. Review of Zoning Ordinance Amendments – Town of Nepeuskun

The zoning office received a copy of the Town of Nepeuskun's adopted zoning ordinance amendments. The amendments are related to solar energy systems, fences, accessory structures and clarification of existing language. The adopted zoning ordinance amendments for the Town of Nepeuskun must be approved by the County Board. There does not appear to be any conflicts with county zoning jurisdiction or regulatory authority.

RECOMMENDATION: Forward adopted zoning ordinance amendments to County Board for action.

5-0 approved



Memo

DATE: October 12, 2022
TO: Town of Nepeuskun Town Board
FROM: Jeff Kusow
Zoning Administrator, Town of Nepeuskun
Community Planner/Code Administrator, Cedar Corporation
SUBJECT: 2022 Batch Code Amendments

The proposed batch text amendments are summarized below by code chapter/section:

1. **Chapter 5, Section 5.2.3:** Amendment of "Accessory building, structure or use" definition, and addition of "fence" definition.
2. **Chapter 5, Section 5.4.5:** Amendment of "Solar energy systems" land use definition.
3. **Chapter 5, Section 5.4.6, Exhibit 3:** Amendment of minimum and maximum lot size dimensional standards for the Agricultural A-2 District.
4. **Chapter 5, Article 5:** Removal of A-2 District Supplemental Regulations.
5. **Chapter 5, Article 6:** Removal of R-1 District Supplemental Regulations.
6. **Chapter 5, Section 5.9.3:** Amendment of provisions for when Plan Commission Site Plan Review is required for accessory buildings/structures.
7. **Chapter 5, Section 5.10.8:** Amendment/addition of requirements/regulations for fences.
8. **Chapter 5, Section 5.10.21:** Addition of allowances for certain accessory buildings prior to establishment of principal building/use.
9. **Chapter 5, Section 5.10.23:** Addition/clarification of requirements/regulations for solar energy systems.
10. **Chapter 5, Article 15:** Addition of provisions for private individuals to petition for zoning text amendments and clarification of procedure/process.
11. **Chapter 11:** Amendment/clarification of requirements for temporary special uses and when a permit is required.
12. **Chapter 13, Section B. 1.:** Removal of non-agricultural driveway spacing requirement and addition/clarification of number of non-agricultural driveways allowed per parcel/lot.

The proposed batch text amendments are summarized below by code chapter and topic:

Chapter 5, Town Zoning Code, Amendments:

1. **Fence Regulations:**
Amendments to Section 5.2.3 and Section 5.10.8 to add and clarify fence regulations in the Town.

2. **Accessory buildings/structures prior to Principal Building:**
Amendments to Section 5.2.3, Section 5.9.3, and Section 5.10.21 to allow certain accessory buildings/structures to be constructed prior to principal buildings in certain circumstances. Proposed exempted/allowed accessory buildings/structures prior to a principal building include the following:
 - a. Utility cabinet
 - b. One (1) residential garage in the A-2 zoning district on lots 5 acres or larger.
 - c. Off-site boathouse in R-1 and R-2 zoning district.
 - d. Off-site residential garage in the R-1 and R-2 zoning district.These amendments closely match Winnebago County allowances.

3. **A-2 District Supplemental Regulations (Base Farm Tract):**
Amendments to Exhibit 3, Dimensional Standards in Section 5.4.6 and eliminating Article 5, A-2 District Supplemental Regulations. This amendment will eliminate Base Farm Tract regulations/restrictions in the Town.

4. **R-1 District Supplemental Regulations (Common Open Space)**
Eliminating Article 6, R-1 District Supplemental Regulations. This amendment will eliminate common open space regulations/requirements in the R-1 zoning district.

5. **Zoning Amendments:**
Amendments to Article 15, Amendments, to allow for a private individual to petition for a text amendment to the Town Zoning Code.

6. **Solar Energy Systems:**
Amendments to Section 5.4.5, Section 5.9.3, and Section 5.10.21, and creation of Section 5.10.23 to add and clarify solar energy systems regulations in the Town.

Chapter 11, Special Use Ordinance, Amendments:

1. **Special Uses:**
Amendments to Chapter 11 to amend and clarify requirements for temporary special uses (i.e., music concerts, large public picnics or festivals, off-road vehicle tracks or races, etc.) and when a Special Use Permit is required.

Chapter 13, Driveway and Culvert Ordinance, Amendments

1. **Driveway Regulations:**
Amendments to Section B. 1. to eliminate the driveway spacing requirement for non-agricultural driveways and allow for 1 driveway per lot per road frontage on Town roads.

Plan Commission Recommendation & Town Board Direction:

Plan Commission Recommendation:

At the October 10, 2022 Plan Commission meeting, the Commission passed a motion to recommend the text amendments as proposed except the proposed accessory building/structure footprint area measurement in Section 5.9.3 should be changed from 600 square feet to 1,500 square feet.

Town Board Direction:

The Town Board may approve, approve with minor revisions, or deny the proposed text amendments (in whole or in part). The Town Board may also table this agenda item and/or refer the text amendments back to the Plan Commission for further review/consideration.

If the Town Board approves the proposed text amendments, the Board will also need to pass a resolution adopting the text amendments.

If the Town Board approves the proposed text amendments consistent with the Plan Commission's recommendation, the following is motion language that may be used:

- *“Motion to adopt text amendments to Section 5.2.3, Section 5.4.5, Section 5.4.6/Exhibit 3, Article 5, Article 6, Section 5.9.3, Section 5.10.8, Section 5.10.21, Section 5.10.23, & Article 15 of Chapter 5, Town Zoning Code; Chapter 11, Special Use Ordinance; and Section B. 1. of Chapter 13, Driveway and Culvert Ordinance, of the Town of Nepeuskun Municipal Code; with the following minor revision:
 - *The proposed accessory building/structure footprint area measurement in Section 5.9.3 shall be changed from 600 square feet to 1,500 square feet.”**

AND

- *“Motion to pass Resolution Number 101722-1.”*

Town of Nepeuskun

Winnebago County, Wisconsin

PROCEEDINGS OF THE REGULAR MONTHLY MEETING OF THE NEPEUSKUN TOWN BOARD HELD MONDAY, OCTOBER 17, 2022.

The regular monthly meeting of the Town Board of the Town of Nepeuskun was called to order at 7:48pm at the Nepeuskun Town Hall, 1475 County Rd E., with all board members and 5 citizens present for the meeting.

Clerk Pinnow certified that an official notice for this meeting had been posted at the official Town Hall posting site and the Town Website on October 14, 2022.

Motion was made by Supervisor Zache and second by Supervisor Wargula to approve the agenda for the October 17, 2022. Motion carried unanimously.

Motion was made by Supervisor Wargula and second by Supervisor Zache to approve consent agenda including with two corrections to Regular Monthly Town Board minutes:

- a. Approval of minutes for the September 19, 2022, Regular Monthly Town Board Meeting
- b. Approval of Treasurer's Reports
- c. Approval of Bills and Vouchers
- d. d. Review of Zoning Permits, Application Fees, and Zoning Administrator Report
- e. Approval of 2023 Highway Maintenance Agreement with Winnebago Co. Highway Dept

Motion carried unanimously.

Public Appearances:

Kathy Griese from Greater Oshkosh Economic Development Corporation was present. Ms. Griese provided mid-year report.

Shawn Schumacher inquired about road work signs left on side of county highways and town roads. Signs are blocking visibility at road intersections. Supervisor Zache will remove sign on Rabbit Trail Rd that is blocking visibility.

Greg Boldt from Spectrum provided contact information for local service manager in the Ripon office. He also provided business pricing quotes for internet/phone line at town hall which would be good for 12 months.

Plan Commission Recommendations:

8a. Recommendation received for item 10b and 10c.

Old Business

9a. Nothing for the month.

New Business:

10a. Motion was made by Supervisor Wargula and second by Supervisor Zache to adopt proposed 2023 Town Budget as the Official 2023 Town Budget. Motion carried unanimously.

b. Motion was made by Supervisor Zache and second by Supervisor Wargula to adopt text amendments to Section 5.2.3, Section 5.4.5, Section 5.4.6/Exhibit 3, Article 5, Article 6, Section 5.9.3, Section 5.10.8, Section 5.10.21, Section

5.10.23, & Article 15 of Chapter 5, Town Zoning Code; Chapter 11, Special Use Ordinance; and Section B. 1. of Chapter 13, Driveway and Culvert Ordinance, of the Town of Nepeuskun Municipal Code; with the following minor revision: The proposed accessory building/structure footprint area measurement in Section 5.9.3 shall be changed from 600 square feet to 1,500 square feet. Motion carried unanimously.

c. Motion was made by Supervisor Wargula and second by Supervisor Zache to adopt Resolution Number 10-2022-1. Motion carried unanimously.

d. Motion was made by Supervisor Zache and second by Supervisor Wargula to adopt Resolution 10-2022-2 Ripon Guardian EMS coverage for the entire township in 2023. Motion carried unanimously.

e. Motion was made by Supervisor Wargula and second by Supervisor Zache to approve HeyGov proposal 0327 for \$600/year of online license, permit and payment services. Motion carried unanimously.

f. Discussion was held regarding Spectrum Business Internet Proposals.

g. Discussion was held regarding replacement roof proposals for Town Hall. Supervisor Zache sought two bids for roof replacement. One bid received to date.

h. Discussion was held regarding replacement flooring and new side window for Town Hall.

Reports from Board Members

11a. Supervisor Zache reported on the WTA Unit Meeting hosted by the Town of Winchester on October 6, 2022.

11b. Nothing for the month.

11c. Ripon Fire District – meeting held on October 4, 2022. Board gave consent to Fire Chief to obtain quote for a new fire truck. Supervisor Wargula reported that Town is not opposed to a new truck purchase, however, Town Board would like to see additional quotes sought from more than one manufacturer. Budget hearing to be held October 31, 2022.

Berlin Fire Dept – Annual Meeting held Thursday, September 22, 2022. Replacement of air packs will happen sooner than planned due to ARPA funds being received from Green Lake County. New truck will be purchased with Towns portion being approximately \$5K due in 2023. Both Bob Paugels and Gary Podell have announced their retirement.

11d. Rush Lake Watershed Restoration Inc.

Ron Bahn provided update. Spraying completed on August 17, 2022. Next meeting to be held on October 19, 2022. Winter burn will be discussed. At-large director seat open on Board if Town knows anyone interested.

12. Correspondence:

- Supervisor Wargula reported that potholes have been filled in on Rich Road by town resident.
- Chairman Grahn contacted Bob Paugels re: possible town wide coverage for fire service.

Future Agenda Items:

- Krueger CUP renewal
- Tax Collection Bond for Treasurer

Motion was made by Supervisor Zache and second by Supervisor Wargula to adjourn. Motion carried at 8:43pm.
Motion carried unanimously.

Respectfully submitted,

Rebecca L. Pinnow, Clerk

Robert Zache, Supervisor

Kyle Grahn, Chairman

Michael Wargula, Supervisor

DRAFT

Town of Nepeuskun

Winnebago County, Wisconsin

PROCEEDINGS OF THE NEPEUSKUN TOWN PLAN COMMISSION REGULAR MONTHLY MEETING HELD MONDAY, OCTOBER 10, 2022.

Phone-in operation was verified, and Chairman Bahn called the meeting to order for the Nepeuskun Town Plan Commission at 7:23 PM at Nepeuskun Town Hall

Secretary DeVries certified the meeting notice was posted online for website and email distribution on 10/7/2022. Notice was posted at the Town Hall on 10/7/2022.

Roll call was taken, with the following present; Chairman Ron Bahn, Vice-Chairman Scott Schuster, Robert Zache, Ben Seaman, Aaron Grove (remote), Candie Strebelski and Secretary Jeremy DeVries. One member of the community was also present.

Motion was made by Member Zache to approve the agenda for the October 10, 2022 Town Planning Commission Meeting with a second by Member Seaman. Secretary DeVries stated that line item 11 on the agenda should read November not October. Motion carried unanimously.

Motion was made by Member Zache to approve the Minutes of the September 12, 2022 regular Monthly meeting with a second by Member Strebelski. Motion carried unanimously.

Public Comment:

- N/A

Member Zache gave an update regarding Town Board Action. Further information is available via the town website under the Town Board Meeting Minutes.

Motion was made by Member Zache to recommend to the Town Board approval of the text amendments as proposed except the following. The proposed accessory building/structure footprint area measurement in Section 5.9.3 should be changed from 600 square feet to 1,500 square feet. The omitted section number 5.4.5 should also be included as being amended for amendment of the "Solar energy systems," definition, as previously discussed during the public hearing, with a second by Vice-Chairman Schuster, motion carried unanimously.

Future agenda items

- None at this time

November meeting date was established for November 14, 2022 at Nepeuskun Town Hall at 7:00 PM.

Motion was made by Member Zache and second by Member Seaman to adjourn. Motion carried at 7:56 PM. Motion carried unanimously.

Respectfully submitted,

Jeremy DeVries

Secretary

Ronald Bahn

Chairman

Scott Schuster

Vice-Chairman

DRAFT

Town of Nepeuskun

Winnebago County, Wisconsin

PROCEEDINGS OF THE NEPEUSKUN TOWN PLAN COMMISSION PUBLIC HEARING MEETING HELD MONDAY, OCTOBER 10, 2022 AT 7 PM FOR THE PURPOSE:

Town of Nepeuskun Planning Commission will hold a public hearing for all persons interested, or their agents or attorneys, to appear before the Commission and be heard concerning proposed text amendments to the Town of Nepeuskun Municipal Code and Town Zoning Code.

Phone-in operation was verified, and Chairman Bahn called the meeting to order for the Nepeuskun Town Plan Commission at 7:00 PM at Nepeuskun Town Hall

Roll call was taken; with the following present: Chairman Ron Bahn, Vice-Chairman Scott Schuster, Robert Zache, Aaron Grove (Remote), Ben Seaman, Candie Strebelski and Secretary Jeremy DeVries. One member of the community was also present.

Zoning Administrator Jeff Kussow made it known that there was an unintentional error on the public hearing notice; the, "public hearing notice stated Chapter 5, Section 5.2.3 was proposed to be amended to amend the "Accessory building, structure or use" and "Solar energy systems" definitions, but the "Solar energy systems" definition proposed to be amended is actually in Chapter 5, Section 5.4.5.

Zoning Administrator Kussow contacted and notified our town attorney of the error. The town attorney reviewed the error and deemed the error minor. The Town attorney advised Zoning Administrator Kussow to hold the meeting as scheduled.

Zoning Administrator Kussow contacted and notified our town attorney of the error. The town attorney reviewed the error and deemed in minor. We were given the OK to hold the meeting as scheduled.

Zoning Administrator Kussow then gave a summary of the proposed text amendments to the Town of Nepeuskun Municipal Code and Town Zoning Code.

Public Comment:

- Audience – None
- Phone/Online – None
- Email Comments – None
- Plan Commission Comments – Zoning Administrator Kussow stated that a community member named Shawn asked if garage setbacks were going to be discussed/alterd at the public hearing. Zoning Administrator Kussow told the community member that those topics were not a part of the proposed changes to be discussed. No further communication followed.

Motion was made by Secretary DeVries and second by Vice-Chairman Schuster to adjourn the public hearing. Motion carried at 7:22 PM. Motion carried unanimously.

Respectfully submitted,

Jeremy DeVries

Secretary

Ronald Bahn

Chairman

DRAFT

Scott Mundro being duly sworn, doth depose and say that he (she) is an authorized representative

**PUBLIC HEARING NOTICE
BEFORE THE TOWN OF NEPEUSKUN, WINNEBAGO COUNTY,
WI PLANNING COMMISSION**

PLEASE TAKE NOTICE that on Monday, October 10, 2022 at 7:00 p.m. at the Town of Nepeuskun Town Hall, located at 1475 County Road E, Ripon, Wisconsin, the Town of Nepeuskun Planning Commission will hold a public hearing for all persons interested, or their agents or attorneys, to appear before the Commission and be heard concerning proposed text amendments to the Town of Nepeuskun Municipal Code and Town Zoning Code. A summary of the proposed text amendments include the following:

1. Chapter 5, Section 5.2.3: Amendment of "Accessory building, structure or use" and "Solar energy systems" definitions.
2. Chapter 5, Section 5.4.6, Exhibit 3: Amendment of minimum and maximum lot size dimensional standards for the Agricultural A-2 District.
3. Chapter 5, Article 5: Removal of A-2 District Supplemental Regulations.
4. Chapter 5, Article 6: Removal of R-1 District Supplemental Regulations.
5. Chapter 5, Section 5.9.3: Amendment of provisions for when Plan Commission Site Plan Review is required for accessory buildings/structures.
6. Chapter 5, Section 5.10.8: Amendment/addition of requirements/regulations for fences.
7. Chapter 5, Section 5.10.21: Addition of allowances for certain accessory buildings prior to establishment of principal building/use.
8. Chapter 5, Section 5.10.23: Addition/clarification of requirements/regulations for solar energy systems.
9. Chapter 5, Article 15: Addition of provisions for private individuals to petition for zoning text amendments and clarification of procedure/process.
10. Chapter 11: Amendment/clarification of requirements for temporary special uses and when a permit is required.
11. Chapter 13, Section B. 1.: Removal of non-agricultural driveway spacing requirement and addition/clarification of number of non-agricultural driveways allowed per parcel/lot.

Copies of the proposed text amendments may be viewed upon request filed with the Town Zoning Administrator, Jeff Kussow, at 920-785-7332 or zoneadmin@townofnepeuskun.org.

The hearing is open to the public and all interested parties are encouraged to attend. Any person may address the Plan Commission by letter sent to 8605 Lake Road, Ripon, WI 54971, by e-mail at townclerk@townofnepeuskun.org, or appear in person or by agent and be heard.

Dated this 16th day of September, 2022
Town of Nepeuskun
Jeremy DeVries
Town Planning Commission Secretary

Publish: September 22 & 29, 2022

WNAXLP

nal, a newspaper published at Berlin, a representation of said State, and that an advertisement is a true copy, taken from said paper, was

September 22, 2022

September 29, 2022

Scott Mundro

(Title)

orn to before me this 29th day of

22
Tracey S. Kallas
Notary Public

pires August 23, 2023

| | | | |
|-----------|---|----------------|--------|
| No. Times | 2 | Notary Fees \$ | 1.00 |
| | | Printers Fees | 396.50 |
| | | Extra Copies | |
| | | Total \$ | 397.50 |

OF OF PUBLICATION

IN THE MATTER OF

GREEN LAKE COUNTY

STATE OF WISCONSIN

Article 2.
Construction, Interpretation, and Definitions

5.2.1 General Rule of Construction.

The provisions of this chapter shall be held to be the minimum requirements adopted to promote the health, safety, morals, beauty, aesthetics, and general welfare of the Town, and shall be liberally construed in favor of this chapter.

5.2.2 Responsibility for Interpretation.

1. **Responsibility for interpretation.** In the event that a question arises concerning any provision or the application of any provision, the zoning administrator shall be responsible for such interpretation and shall look to the overall intent of this chapter. The Zoning Administrator shall provide such interpretation in writing to the applicant upon request and shall keep a permanent public record of said interpretations.
2. **Limitations on interpretations.** This responsibility for interpretation shall not be construed as overriding the responsibility given to any commission, board, or official named in other parts of this chapter.

5.2.3 Definitions.

1. **Incorporation by reference.** Shoreland definitions set forth in Chapter NR 116 of the Wisconsin Administrative Code are incorporated by reference.
2. **Words defined.** For the purpose of this chapter, the following words and terms are defined:

Accessory building, structure or use means any building, structure, or use that is clearly incidental and subordinate to and customarily found with a principal use. ~~An~~ Except for fences and as otherwise specified in other sections of this Chapter, an accessory building or use cannot occur until after a principal building or use is ~~in existence~~ present or under construction.

Animal unit (AU) means a unit of measure used to determine the total number of single animal types or combination of animals types, which are fed, confined, maintained, or stabled in an animal feeding operation (see 5.10.9).

Approved burial vault means a rigid container providing an environment for the preservation of its contents. It must be able to adequately support the load placed upon it to prevent eventual deterioration and ground sinking. The most common material in a vault is cement.

Auction –Traditional means an auction of traditional expectation that is held for the personal sale of an estate and/or items within the estate. A "Traditional Auction" does not utilize structures or buildings specific to the task of holding an auction.

Basement means a story partly underground but having at least one-half of its height above the mean level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurements if the vertical distance between the ceiling and the mean level of the adjoining ground is more than five feet, or if used for business purposes, or if used for dwelling purposes by other than a janitor or his family.

Base Farm Tract means all land, whether one parcel of more contiguous parcels, which is in an A-1 or A-2 zoning district and is part of a single farm regardless of any subsequent changes in the size of the farm. The Town of Nepeuskun has established base farm tracts as of 12-21-2010 that are of this same definition. Parcel ownership requirements shall be consistent with Wis. Stats Chapter 91 definitions.

Building height means the vertical distance from the mean elevation of the lowest finished grade along the front of the building to the highest point.

Cellar means a story having more than one-half of its height below the mean level of the adjoining ground. A cellar should not be occupied for living purposes, and shall not be counted as a story for purposes of height measurement.

Conditional use means a land use that would not be appropriate generally or without restriction throughout a specified area but which, if controlled as to the number, area, location, or relation to the area could promote the public health, safety, or general welfare.

Development means any activity which results in an alteration of either land or vegetation, except farming or any normal grading and filling, for purposes of changing to or intensifying existing uses in residential, business, recreational, institutional, or industrial property.

[Fence](#) means a linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include wood, concrete, metal, wire, masonry, stacked rocks, or logs. (See Section 23.3-2, Winnebago County Town/County Zoning Codes)

Frontage means that side of a lot abutting on a public road.

Grade means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Hazard Any condition, whether natural or man-made, that presents a tangible danger to the public health, safety, or general welfare.

Land use means, as the context would indicate, (1) the development that has occurred on the land, (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

Lot means a parcel of land occupied or to be occupied by one main building or use, with its accessories and including the open space accessory to it. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open-space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot lines means the lines bounding a lot, as defined in this ordinance.

Manufactured home means any of the following: (1) A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. (2) A structure which meets all the requirements of the above except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 to 5425, and except that such term shall not include any self-propelled recreational vehicle. (See §101.91(2), Wis. Stats.)

Nonconforming use means a building or land occupied by a use that does not conform to the use regulations of the district in which it is situated.

Common open space means land within or related to a development, not individually owned, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

Parking space means an off-street area required for parking 1 automobile.

Principal building means the primary structure that houses a principal use.

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Road means a public thoroughfare which affords the principal means of access to abutting property.

Structure means anything constructed or erected, the use of which requires more or less permanent location on the ground.

Structural alterations means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Swale means a wide shallow ditch or depression used to temporarily convey, store, and filter storm water runoff.

Usable floor area means the area within the exterior wall lines of a building; provided, that the floor area shall not include attics, cellars or utility rooms, garages, breezeways and unenclosed porches, and other areas not furnished or usable as living quarters.

Variance means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

Yard means an open space on the same lot with a principal building or group of buildings which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this ordinance, and which extends

Solar energy systems means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy as defined in Wis Stats. 13.48 (2) (h) 1 g. The definition of "Solar Energy System" does not include the following:

- ~~1. solar~~ Solar powered low level light fixtures that are ground or wall mounted;
- ~~2. solar~~ Solar powered electric fences;
- ~~3. roof~~ Roof mounted and ground-mounted/freestanding solar energy panels of a non-reflective material ~~or any other solar powered units~~ that are designed primarily for personal, private use and ~~are less than seventy five (75) square feet in size~~. meet the following size limitations:
 - a. Roof-mounted and/or ground-mounted/freestanding solar energy panels with a total combined area of less than or equal to the building footprint area of the principal structure(s) on the parcel in which the solar energy panels are located.

Mobile and radio broadcast services means antennas, towers and other structures necessary to provide mobile and radio broadcast services in the Town. In addition, definitions contained in Wis Stats. 66.0404 are incorporated herein by reference, for the purpose of this ordinance.

COMMUNITY SERVICES/USES

Administrative government center means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, town halls, and the like.

Community center means a place and/or building, or portion thereof, which is used or is intended for short-term and intermittent meetings or gatherings of persons, that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term does not include fraternal, social, or civic clubs, lodges, union halls, and the like.

Educational facility means a place and/or building, or portion thereof, which is used or is intended for use as a preschool, elementary, junior high, or high school.

Instructional facility means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

Instructional facility-agriculture means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training and research for farming and/or agricultural related purposes only.

Worship facility means a place and/or building, or portion thereof that is used or is intended as a place where persons regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, mosques, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, and rectories. The term does not include day care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

RECREATION / SPORTS / ENTERTAINMENT

Golf course/driving range means a place, whether organized for profit or not, that is used or is intended for playing golf.

Indoor entertainment means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like. The term does not include uses referred to as gentlemen clubs or adult establishments.

Indoor sports and recreation means a place and/or building, or portion thereof, that is used or is intended for indoor recreation. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, weight loss centers, and the like. The term does not include uses referred to as gentlemen clubs or adult establishments.

Miniature golf means a place and/or building, or portion thereof that is used or is intended for playing miniature golf.

Outdoor entertainment means a place and/or building, or portion thereof, which is used or is intended for outdoor, spectator-type uses or events. The term includes racetracks, motocross courses, sports arenas, and the like.

5.4.6 Dimensional Standards within Districts.

1. Within each district established in this code, the dimensional standards as contained in Exhibit 3 shall apply.

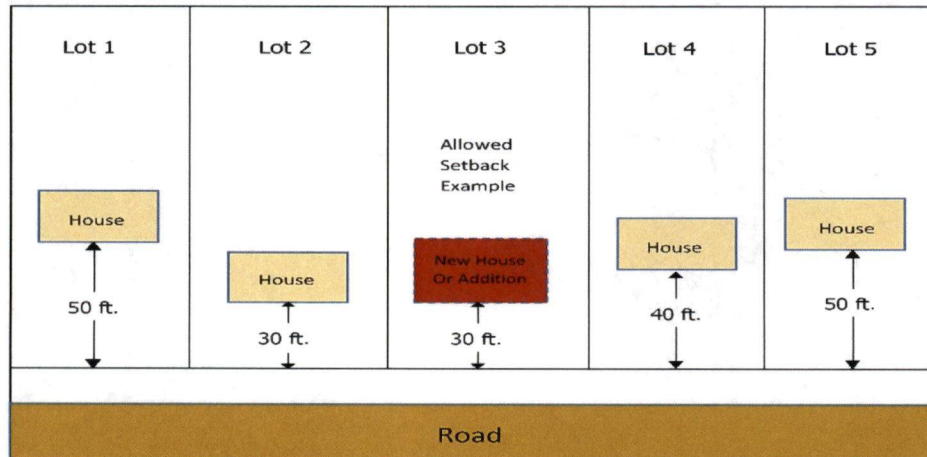
Exhibit 3. Dimensional Standards

| | R-1 | R-2 | C-1 | A-2 | PLI | A-1 |
|---|----------|--|---------|----------------------------------|------|---------|
| Minimum front yard setback on a private road | NA | 30' | NA | NA | NA | NA |
| Minimum front yard setback on a town or county road | 50' | NA | 50' | 50' | 50' | 50' |
| Minimum front yard setback on a state road | 75' | NA | 75' | 75' | 75' | 75' |
| Minimum side yard setback | 10' | 10' on either side, with a minimum combined total of 22' | 10' | 10' | 10' | 10' |
| Minimum rear yard setback | 10' | 25' / 75' shore | 10' | 10' | 10' | 10' |
| Minimum lot size | 2 acres* | 1/2 acre | 1 acre | See §5-5-1 2 acres | None | 2 acres |
| Maximum lot size | 5 acres | None | none | See §5-5-1 None | None | None |
| Minimum road frontage for lots | 200' | 50' | 100' | 200' | 100' | 200' |
| Maximum building height | 35 feet | 35 feet | 35 feet | none | 35' | None |
| Maximum building height for a residence | | | | 35' | | 35' |

* Manufactured home parks are exempt.

2. Notwithstanding the above dimensional standards, no undeveloped parcel between two developed parcels along the same street or road shall have a minimum front setback less than structures on either of adjoining parcels. Additions to existing structures shall be required to maintain current side and rear established setbacks and not have front setback less than the structures on the adjoining parcels (See example below). The Board of Appeals may further vary this regulation in appropriate cases provided that the Board of Appeals shall establish such conditions as will hold the Town harmless from additional requirements improvement damages which might accrue when and if the public road is improved.

Roadway Setback Allowances



Article 5.

A-2 District Supplemental Regulations ~~Reserved~~

5.5.1 ~~Density Standards in A-2 District.~~ Any tract or parcel of land in common contiguous ownership at the time of the adoption of this provision of the Zoning Ordinance (refer to Base Farm Tract definition), subject to other normally applicable subdivision laws and regulations, hereafter may be subdivided into buildable lots as follows:

1. ~~Buildable lots.~~ For the purposes of this section, a buildable lot is defined as a lot on which a building may be constructed, subject to all other applicable standards and regulations.
2. ~~Existing tracts or parcels in common contiguous ownership (Base Farm Tract).~~ The number of potential splits for buildable lots shall be based on the acreage of all existing adjacent parcels in common ownership. For this purpose, adjacent parcels are parcels that share a lot line or are directly across the road from each other. (For example, if a landowner has two adjacent parcels, one that is 10 acres and one that is 30 acres, the calculation for allowable lots would be based on 40 acres). The permitted buildable lots may be located on one parcel or distributed between the contiguous parcels in common ownership, so long as they are in conformance with all other applicable standards and regulations.
3. ~~Existing tracts or parcels 10 acres or less.~~ Existing tracts or parcels of land 10 acres or less may be subdivided such that the resulting minimum lot size is two (2) acres.
4. ~~Existing tracts or parcels greater than 10 and less than 25 acres.~~ Existing tracts or parcels of land greater than 10 and less than 25 acres may be split once so as to create a total of two buildable lots. The minimum lot size of both resulting parcels shall be 2 acres. The resulting parcels of land may not be further subdivided except for open space or agricultural purposes. No buildings are permitted on land subdivided for open space or agricultural purposes, and the minimum lot size for such lots is 2 acres.
5. ~~Existing tracts or parcels 25 acres or greater.~~ Existing tracts or parcels of land 25 acres or greater may be subdivided into a combination of "large" and "small" buildable lots as set forth below.
 - a. ~~"Small" lots.~~ For this purpose, small lots are defined as having a minimum lot size of two (2) acres and a maximum lots size of five (5) acres.
 - b. ~~"Large" lots.~~ For this purpose, large lots are defined as having a minimum lot size of 20 (twenty) acres.
 - c. ~~Maximum number of buildable lots permitted.~~ The total number of buildable lots shall be no more than equals one (1) per twenty five (25) acres of the existing tract or parcel, up to a maximum of four (4) lots. (For example, an existing 80-acre tract of land may be subdivided into no more than three (3) buildable lots).
 - d. ~~Recording of Remaining Permitted Buildable Lots.~~ As part of a land division review process, the number of remaining buildable lots (i.e., the total number of buildable lots permitted minus the number of buildable lots included in past or current land divisions) shall be recorded on the plat or certified survey map (CSM).
 - e. ~~Subdivision of Land for Open Space and Agricultural Purposes.~~ Any parcel of land may be further subdivided for open space and agricultural purposes provided that the resulting minimum lot size is two (2) acres. No buildings are permitted on land subdivided for open space or agricultural purposes.

5.5.2 ~~Lot Layout Guidelines.~~ In determining the design of buildable lots in the A-2 zone the following criteria should be applied:

1. ~~Clustering.~~ Clustering of buildable lots may be required by the Plan Commission as a condition to granting any subdivision approval.
2. ~~Prime Agricultural Soils.~~ Small lots (2 to 5 acres) should avoid prime agricultural soils, defined as Class I and Class II by the USDA Natural Resources Conservation Service or similar successor agency;
3. ~~Sensitive Natural Features.~~ Small lots (2 to 5 acres) should not be created in areas with sensitive natural features such as wetlands, streams, and steep slopes.
4. ~~Contiguous Open Space.~~ To the extent reasonably possible, subdivisions shall be approved in a manner that maintains the largest amount of contiguous acreage for open space or agricultural use.

Article 6.

R-1 District Supplemental Regulations ~~Reserved~~

5.6.1 Open Space Requirements. Any tract or parcel of land in common contiguous ownership that is 20 acres or greater in size at the time of the adoption of this provision of the Zoning Ordinance must meet the following open space requirements when subdivided.

- a. At least 40 percent of the subdivided area must be set aside as common open space.
- b. The common open space does not count towards minimum lot size requirements

5.6.2 Conditional Uses in the Common Open Space. The following conditional uses may be permitted by the Plan Commission, in the common open space provided the proposed use shall not adversely impact the rural character of the district and shall be consistent with the overall objectives of the district:

- a. Agricultural uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new agricultural buildings or structures shall not exceed 10,000 square feet.
- b. Recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed 10,000 square feet.

5.6.3 Design Standards for Common Open Space. Common open space shall comply with the following design standards:

- 1. **Consistent with Comprehensive Plan Objectives.** The location of common open space shall be consistent with the objectives of the Town Comprehensive Plan.
- 2. **Integrated Open Space System.** All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed.
- 3. **Rural Character.** Common open space shall, to the greatest extent possible, protect site features identified as having particular value in the context of preserving rural character such as scenic views, ridge tops, wetlands, and the like.
- 4. **Natural Features.** Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes. Permitted modifications may include:
 - a. Woodland management.
 - b. Reforestation.
 - c. Meadow management.
 - d. Streambank protection.
 - e. Buffer area landscaping
- 5. **Inclusion of Key Natural Features.** All wetlands, floodplains, wildlife habitat areas, slopes over 12 percent shall be included in the common open space.
- 6. **Adjacent Existing or Future Open Space.** The common open space shall maximize common boundaries with and connections to existing or future open space on adjacent lands.
- 7. **Preservation of Scenic Views.** To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- 8. **Boundaries of Common Open Space.** The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish this objective.
- 9. **Lands along Existing Public Streets.** Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

~~10. **Access to Common Open Space.** Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes. Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.~~

~~11. **Exclusion of Lots, Streets, Rights-of-Way, and Parking Areas.** The following areas shall not be included in the calculation of common open space areas:~~

- ~~a. Private lot areas.~~
- ~~b. Street and highway rights-of-way, public or private.~~
- ~~c. Railway and utility rights-of-way.~~
- ~~d. Parking areas.~~

5.6.4 Ownership and Maintenance of Common Open Space

~~To ensure adequate planning for ownership and maintenance of common open space the following regulations shall apply:~~

~~1. **Ownership.** The following methods may be used, either alone or in combination, to own common open space. Common open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common open space. Ownership methods shall conform to one or more of the following:~~

~~a. **Homeowners Association.** Common open space shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:~~

- ~~(1) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common open space. Such documents shall be approved as to form by the Town Attorney.~~
- ~~(2) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.~~
- ~~(3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.~~
- ~~(4) The organization shall be responsible for maintenance of common open space.~~
- ~~(5) The members of the organization shall share equitably the costs of maintaining common open space.~~
- ~~(6) The applicant for any cluster subdivision or development proposed to contain common open space shall arrange with the Town Assessor a method of assessment of the common open space which will allocate to each tax parcel in the development a share of the total assessment for such common open space.~~
- ~~(7) Written notice of any proposed transfer of common open space by the homeowners association or the assumption of maintenance of common open space must be given to all members of the organization and to the Town at least thirty (30) days prior to such event.~~

~~b. **Condominium Agreements.** Common open space may be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the Town Attorney and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space shall be held as "common elements" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.~~

~~c. **Fee simple dedication to the Town.** The Town may, but shall not be required to, accept any portion of the common open space, provided that:~~

- ~~(1) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.~~
- ~~(2) Any open space so dedicated shall be accessible to the residents of the Town, if the Town so chooses.~~
- ~~(3) The Town or other public agency shall maintain such facilities.~~
- ~~(4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.~~

- d. ~~**Dedication of conservation easements to a public agency.** The Town or other public agency acceptable to the Town may, but shall not be required to, accept easements for public use of any portion of the common open space, title of which is to remain in private ownership, provided that:
 - (1) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
 - (2) A satisfactory maintenance agreement shall be reached between the owner and the Town.
 - (3) Lands under a Town easement may or may not be accessible to residents of the Town.~~
 - f. ~~**Dedication of conservation easements to a nonprofit conservation organization.** With the approval of the Town Board, an owner may dedicate conservation easements on any portion of the common open space to a nonprofit conservation organization, provided that:
 - (1) The organization is acceptable to Town.
 - (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.~~
 - g. ~~**Ownership retained by the original landowner.** Ownership of common open space and facilities may be retained by the original landowner provided that:
 - (1) The Town and residents of the development shall hold conservation easements on the land protecting it from any further development.
 - (2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.~~
 - h. ~~**Other methods acceptable to the Town Board upon recommendation by the Town Attorney.**~~
2. ~~**Leasing of Common Open Space Lands.** Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:~~
- a. ~~The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.~~
 - b. ~~The common open space lands to be leased shall be maintained for the purposes set forth in this Section.~~
 - c. ~~The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.~~
 - d. ~~The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.~~
 - e. ~~Lease agreements shall be recorded in the office of the County Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Town.~~
3. ~~**Conservation.** Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board upon recommendation of the Town Attorney and duly recorded in the office of the County Register of Deeds.~~

Article 9.
Site Plan Review

- 5.9.1 Generally.** The Plan Commission shall review site plans for all new uses, developments, buildings, structures, and signs.
- 5.9.2 Establishment and Purpose.** The Town of Nepeuskun hereby establishes Site Plan Review standards to promote stability of property values; to promote compatible development; to foster the attractiveness of the community as a place to live; to preserve the rural character of the community; to preserve the quality of the built environment; and to uphold the goals, strategies and guidelines of the comprehensive plan.
- 5.9.3 Compliance.** No new use, development, building, structure, or sign shall hereafter be erected until the Plan Commission has reviewed and approved site plans for the site, buildings, structures, or signs. Accessory buildings or structures with a ~~cost or value~~ building/structure footprint area of less than ~~\$40,000~~ 1,500 square feet are exempt from this requirement, except for such accessory buildings being proposed prior to a principal building or use being present or under construction. Accessory buildings or structures which are exempt from this requirement shall comply with all applicable development and use standards of Article 10. The Plan Commission shall not approve any plans unless they find after viewing and study of the application that the use, site, building, structure, or sign, as planned will not violate the intent and purposes of this Chapter. Only after the Plan Commission Chairperson has signed the approved plan(s), signifying support of the Plan Commission, may appropriate permits be granted. Modification, expansion, or renovation of existing uses and structures does not require site plan approval.
- 5.9.4 Application and Review Procedure.**
The following procedure shall be followed:
1. **Submittal of application.** The applicant shall submit a completed application and site plan to the Zoning Administrator at least 30 days prior to the established monthly meeting date of the Plan Commission along with the appropriate fee as listed in the Town's Annual Fee Schedule. An application for site plan approval shall also serve as an application for a zoning permit.
 2. **Determination of completeness.** Within ten (10) business days of submittal, the Zoning Administrator shall determine if the application is complete and consistent with the provisions set forth in Article 9 of this Chapter. If the application is deemed incomplete or inconsistent it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.
 3. **Decision.** Within forty (40) days of the determination of completeness, the Plan Commission shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include findings in support of its decision and, if approved, conditions as may be imposed.
 4. **Applicant notification.** Within five (5) days following the decision, the Zoning Administrator shall issue a zoning permit, mail the applicant the original (signed) copy of the decision, and retain a (signed) copy for the decision for public record.
- 5.9.5 Site Plan Review Principles and Standards.** To implement the purposes set forth in Section 5.9.2, the Plan Commission and staff shall review the site, existing and proposed structures, neighboring uses, provision and utilization of landscaping and open space, parking areas, driveway locations, loading and unloading (in the case of commercial uses), highway access, traffic generation and circulation, drainage, septic and water systems, and the proposed operation. The Plan Commission will approve said site plans only after determining that:
1. The proposed use(s) conforms to the uses permitted in that zoning district.
 2. The site plan conforms to the development and use standards set forth in Article 10 of this Chapter and is consistent with all other provisions of this Chapter.

- c. Place buildings and structures either at the edges of fields or parcels or in cleared areas next to fields. Septic systems and drainage fields, however, may be placed in fields.
- d. Use existing vegetation and topography to buffer and screen new development.
- e. Minimize clearing vegetation at the edge of the road, clearing only as much as necessary to create driveway access with adequate sight distance. Use curves in the driveway design to add to the screening of the building.
- f. Locate buildings so that they do not protrude above treetops and crest lines of hills seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selectively cutting small trees and lower branches of larger trees, rather than clearing large areas or removing mature trees.
- g. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g. walkout basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
- h. Use best management practices for erosion and sediment control.

5.10.7 Residential.

No more than one (1) residential building shall occupy any single parcel or lot. When an old residence is being replaced by a new residence on the parcel, the old residence must be removed within a six (6) month period of receiving the occupancy permit for the new residence.

5.10.8 Fences.

~~Fences are permitted on or near property lines. All fences must comply with the minimum requirements for fences set forth in Chapter 90, Wisconsin Statutes.~~

1. Applicability. The requirements of this section apply to a fence more than 30 inches in height constructed or rebuilt after (insert adoptions date), and which are located on a parcel, wholly or partially, located in one of the following base zoning districts:

- a. R-1, Residential District
- b. R-2, Shoreland Residential District
- c. C-1, Existing Commercial District
- d. C-2, Community Commercial District

A fence for a residential use within the A-1, Farmland Preservation District, A-2, Agricultural District, and/or FPO, Farm Preservation Overlay, shall meet the residential zoning district standards.

2. Incorporation of Winnebago County special standards by reference. See Section 23.8-456, Fence, of Winnebago County Town/County Zoning Codes for the special standards for fences. All references to an officer, agent, employee, or committee of Winnebago County shall be the corresponding officer, agent, employee, committee or commission of the Town of Nepeuskun, which shall administer and enforce this section. All references to special exception shall be site plan review pursuant to the procedures and requirements in Article 9 of this Chapter. Section 23.8-456 of Winnebago County Town/County Zoning Codes is incorporated into this section by reference as if fully set forth herein.

3. Waiver of Requirements by Town Board. Upon written request submitted by a property owner or applicant, the requirements in this section may be waived by the Town Board in consideration of prior recommendation by the Planning Commission, without a public hearing and without the granting of a variance.

a. Notification of Adjacent Property Owners. At least two (2) weeks prior to the Town Board meeting, the Town shall give due notice to property owners of lands abutting the parcel or parcels included in the waiver request.

5.10.9 Farm Animals.

1. **Agricultural Districts (A2).** Farm animals in the A-2 district shall be allowed consistent with the tables in this section and in accordance with the Winnebago County Livestock Waste Management Ordinance. The number of permitted animals per acre shall be based on the acreage of all adjacent parcels in common ownership (referred to in Exhibit 4 as "Parcel or Tract") or leased through an agreement with adjacent parcel owners. The lease agreement must specify a period of time the agreement will be in effect and be filed with Winnebago County and the applicant is issued a Waste Management permit for livestock waste disposal.

- f. A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot.
- g. The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.
- h. Each burial plot shall have access to a private drive at no greater distance than five (5) lots apart.

5.10.21 Accessory Uses.

1. **Generally.** Unless [specifically permitted in this section or otherwise specified in other sections of this Chapter](#), accessory uses and structures are permitted in any district, but not until their principal structure [or use](#) is present or under construction. [Except for home occupations, Residential-residential](#) accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; employees and owner's itinerant agricultural laborer's quarters not for rent; private swimming pools; and private emergency shelters.
2. **Accessory use location.** Unless otherwise specified in other sections or granted by variance, accessory uses and detached accessory structures are permitted within the buildable area or in the side or rear yard only. They shall be ten (10) or more feet from the principal structure and any lot line.
 - a. For non-agricultural uses, structures shall not occupy more than 20 percent of the rear or yard area of the site.
 - b. [For accessory roof-mounted and ground-mounted/freestanding solar energy panels that are designed primarily for personal, private use and do not meet the definition of "solar energy systems", structures shall comply with the dimensional standards of Section 5.4.6, except ground-mounted/freestanding solar energy panels shall not exceed 15 feet in height when oriented at maximum tilt.](#)
3. **Exemption for an accessory use on vacant lot adjoining another lot in same ownership.** Pursuant to the procedures and requirements in Article 9 of this Chapter, the Plan Commission may approve a site plan to allow the establishment of an accessory use on a vacant lot provided the accessory use is allowed in the zoning district and such lot adjoins a lot in the same ownership that supports a principal use. A lot adjoins another when they share a common lot line. If the commission approves the site plan, the property owner shall record an agreement and deed restriction, as approved by the commission, with the register of deeds for Winnebago County that describes the authorized use and any conditions of approval. Such conditions of approval may relate to the use of the accessory use and the need to reestablish a principal use on the subject property within a specified time period.
4. **Exemption for a utility cabinet.** For the purpose of this chapter, a utility cabinet may be established on a vacant lot prior to the establishment of a principal use.
5. **Exemption for residential garage in A-2 district.** In an A-2 zoning district, a residential garage may be constructed prior to the establishment of a principal use provided the parcel is 5.0 acres or more. As a condition of approval, the property owner shall record an agreement and deed restriction, as approved by the zoning administrator, with the register of deeds for Winnebago County that describes the nature of the authorized use. This exemption shall allow only one residential garage on the subject property.
6. **Exemption for off-site boathouse in R-1 and R-2 district.** In an R-1 and R-2 zoning district, an off-site boathouse may be constructed prior to the establishment of a principal use provided the off-site boathouse complies with all requirements of Section 23.8-448, boathouse, off-site, of Winnebago County Town/County Zoning Codes. See 23.8-448, boathouse, off-site, of Winnebago County Town/County Zoning Codes for the special standards for off-site boathouses. All references to an officer, agent, employee, or committee of Winnebago County shall be the corresponding officer, agent, employee, committee or commission of the Town of Nepeuskun, which shall administer and enforce this section. Section 23.8-448 of Winnebago County Town/County Zoning Codes is incorporated into this section by reference as if fully set forth herein.
- 2.7. **Exemption for off-site residential garage in R-1 and R-2 district.** In an R-1 and R-2 zoning district, an off-site residential garage may be constructed prior to the establishment of a principal use provided the off-site residential garage complies with all requirements of Section 23.8-459, garage, off-site residential, of Winnebago County Town/County Zoning Codes. See 23.8-459, garage, off-site residential, of Winnebago County Town/County Zoning Codes for the special standards for off-site residential garages. All references to an officer, agent, employee, or committee of Winnebago County shall be the corresponding officer, agent, employee, committee or commission of the Town of Nepeuskun, which shall administer and enforce this section. Section 23.8-459 of Winnebago County Town/County Zoning Codes is incorporated into this section by reference as if fully set forth herein.

5.10.22 Farm Buildings. Farm buildings and other out-buildings exceeding 120 square feet (cumulative area) shall only be allowed as an accessory use to a residence. For parcels exceeding thirty-five (35) acres, farm buildings and other out-buildings are allowed as a conditional use when a residence is not located on the premises.

5.10.23 Solar Energy Systems. The following are minimum requirements for solar energy systems:

1. **Setbacks.** Solar energy systems shall meet the following minimum setbacks:
 - a. Side and rear yard setbacks: As described in described in Section 5.4.6.
 - b. Front yard setback: 150 feet from the centerline of a state or county road right-of-way; 100 feet from the centerline of a town or private road right-of-way.
 - c. All setbacks may be reduced by 50%, upon approval by the Town Planning Commission, if the array is fully screened from the setback point of measurement.
 - d. Increased setbacks may be required at the discretion of the Town Planning Commission.
2. **Screening.** Solar energy systems shall be screened from adjacent residentially-zoned property and existing residential dwellings which are not located on the same lot as the solar energy system. A screening plan shall be submitted that identifies the type and extent of screening. This requirement may be waived at the discretion of the Town Planning Commission.
3. **Ground Cover and Buffer Areas.** The following minimum provisions shall apply to the clearing of existing vegetation and establishment of vegetated ground cover.
 - a. Large-scale removal of mature trees on the site is discouraged.
 - b. The applicant shall submit a vegetative management plan prepared by a qualified professional. The plan shall identify:
 - (1) The qualified professional responsible for the plan.
 - (2) The conservation, habitat, eco-system, or agricultural goals, which may include: providing habitat for pollinators such as bees and monarch butterflies, providing habitat for wildlife such as upland nesting birds and other wildlife, establishing vegetation for livestock grazing, reducing on-site soil erosion, and improving or protecting surface or ground-water quality.
 - (3) The intended mix of vegetation upon establishment.
 - (4) The management methods and schedules for how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three years.
 - c. Soils shall be planted and maintained in perennial vegetation for the full operational life of the project, to prevent erosion, manage run off and build soil.
4. **Power and Communication Lines.** Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Town in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Town Planning Commission.
5. **Fencing.** Perimeter fencing for the site shall not include barbed wire or woven wire designs, and shall preferably use wildlife-friendly fencing standards that include clearance at the bottom.
6. **Stormwater Management and Erosion/Sediment Control.** Solar energy systems are subject to the stormwater management and erosion/sediment control provisions of Winnebago County and the Wisconsin Department of Natural Resources.
7. **Other Standards and Codes.** All solar energy systems shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Wisconsin Uniform Building Code, as amended; and the National Electric Code, as amended.
8. **Farmland Preservation.** All solar energy systems in the A-1 or FPO zoning district shall comply with the applicable requirements described in Chapter 14, Farmland Preservation Ordinance, of the Town of Nepeuskun Municipal Code.
9. **Decommissioning.** A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.
 - a. Decommissioning of the system must occur in the event the project is not in use for 12 consecutive months.
 - b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and assurances that financial resources will be available to fully decommission the site.
 - c. Structures and/or foundations shall be disposed of in accordance with applicable local, county, and state requirements.

- d. The Town may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

**Article 15.
Amendments**

5.15.1 Generally.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, amend this chapter and/or the zoning map upon recommendation of the Planning Commission. ~~The Planning Commission shall hold a public hearing consistent with the requirements as set forth in Section 5.8.2. Such amendments shall not become effective until such time as the County Board concurs with the amendment as required by state law. All such amendments shall be adopted according to the procedures consistent with state law established under §60-62 and 62.23 (7), Wis. Stats., upon review and recommendation by the Plan Commission.~~

5.15.2 Initiation of Amendment.

Amendments may be proposed by the Town Board, the Planning Commission, or by an interested person or organization.

5.15.3 Application and Review Procedure.

The application and review procedures for amendments to this chapter and/or the zoning map shall be the same as set forth in Section 5.8.2. Such amendments shall not become effective until such time as the County Board concurs with the amendment as required by state law. All such amendments shall be adopted according to the procedures consistent with state law established under §60-62 and 62.23 (7), Wis. Stats., upon review and recommendation by the Plan Commission.

~~5.15.25.15.4~~ Consistency with Adopted Comprehensive Plan.

Any amendment that is made to this chapter and/or the zoning map after January 1, 2010, shall be consistent with and furthers the intent and requirements of the Town's Comprehensive Plan that is in effect at the time. Any ~~rezone petition~~amendment that is not consistent with the Town of Nepeuskun Comprehensive Plan shall require an amendment to said plan before town action is taken on the ~~rezone petition~~amendment. Comprehensive Plan amendments shall include a Public Hearing held by the Planning Commission (Class 1 Public Hearing Notice). The Planning Commission shall make a recommendation on the Comprehensive Plan amendment to the Town Board for action.

5.15.5 Appeal of Town Board Decision.

Any person aggrieved by a decision of the Town Board may, within 30 days after the date of the decision, file an appeal with the Board of Appeals.

| Description | Date |
|--------------------|-------------------|
| Adopted | December 21, 2010 |
| Amended | August 6, 2015 |
| Amended | May 26, 2016 |
| Amended | July 21, 2021 |
| Amended | March 18, 2022 |

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End of Chapter

**Chapter 11
Special Use Ordinance**

WHEREAS, the Town finds it necessary to exercise its police powers as authorized by Section 60.22 of the Wisconsin Statutes;

NOW, THEREFORE, The Town Board of the Town of Nepeuskun does hereby ordain as follows:
Chapter 11 Special Use Ordinance is created to read:

I. ~~Uses are not permitted unless a special use permit is approved by the Town Board~~ **Permit Required.** The following Special uses and events in which 300 or more persons will or may reasonably be anticipated to attend in a 24-hour period shall not be permitted in any residential, agricultural, or commercial district unless a temporary special use permit is approved. Temporary special use permits may be granted at the discretion of the Town Board after a public hearing and upon the imposition of appropriate conditions as determined necessary. Examples of such special uses and events may include, but are not limited to music concerts, large public picnics or festivals, and off-road vehicle tracks or races.

- a. ~~Music concerts~~
- b. ~~Large public picnics or festivals~~
- c. ~~Off road vehicle tracks or races~~
- d. ~~Transfer, transload, or similar operations~~

II. ~~Farm and/or real estate auctions, non-profit organization events, outdoor weddings, reunions or similar functions and benefits over 100 participants are permitted with approval of the Town Board and with the fee waived.~~

III. **Conditions.** The Town Board reserves the right to place any reasonable restriction on the approval of a special use permit. Conditions may include but are not limited to:

- a. Hours of operation
- b. Crowd control, law enforcement involvement, off road parking availability
- c. Noise control
- d. Waste disposal and clean up
- e. Sanitary facilities
- f. Bonding for potential Town expenses
- g. Any other conditions deemed necessary by the Town Board.

IV. **Application procedure and costs:**

- a. **Submittal of Application.** An applicant shall submit ~~an a completed~~ application for a Special Use Permit ~~in accordance with the procedures established in Section 5.8.2 to the Zoning Administrator at least 60 days prior to the planned activity or start of a continuing business venture and at least 30 days prior to the established monthly meeting date of the Town Board.~~ A non-refundable fee consistent with the Town's of Nepeuskun Annual Fee Schedule shall accompany the application. The application shall list the responsible parties, the location of the planned event or activity, a site plan showing the location of the necessary parking, lighting, sanitary facilities and such other detail as maybe necessary.
- b. ~~The application will be reviewed utilizing the same procedure as authorized for a Conditional Use Permit under the Town Zoning Ordinance (Section 5.8.2).~~ **Determination of Completeness.** Within ten (10) business days of submittal, the zoning administrator shall determine if the application is complete. If the application is deemed incomplete it shall be returned to the applicant and the applicant has six (6) months to resubmit the application or forfeit the application fee. Until the application is deemed complete, no other actions are required.

c. ~~Allowing for proper notice, the Plan Commission shall hold a public hearing to review the application and make a recommendation to the Town Board.~~ **Single Day Special Uses and Events.** For single day special uses and events, the application will require review by the Town Board only. No public notice, public hearing, or plan commission review/recommendation will be required.

1. Within forty (40) days of the zoning administrator determining the application is complete, the Town Board shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include findings in support of its decision and, if approved, conditions as may be imposed.

2. Within five (5) days following the decision, the Board shall mail the applicant the original (signed) copy of the decision and retain a (signed) copy for the public record.

d. **Multiple Day Special Uses and Events.** For special uses and events lasting multiple consecutive days, the application will be reviewed utilizing the same procedures as established in Section 5.8.2 c. through 5.8.2 f.

| Description | Date |
|--------------------|-------------------|
| Adopted | December 19, 2011 |
| Amended | August 6, 2015 |

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End of Chapter

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parking or servicing other vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road.

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

B. DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

1. General Requirements.

The location, design and construction of driveways shall be in accordance with the following:

a. General Design.

Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the Town road of the property served.

Driveways shall not provide direct ingress or egress to or from any Town road intersection area and shall not encroach upon or occupy areas of the Town road right-of-way required for effective traffic control or for Town road signs or signals.

A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the Town road.

Driveway approaches shall comply with existing standards as established in the Town's zoning code.

Driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

All driveways shall be designed with adequate width and materials to allow access by emergency vehicles.

The maximum slope of a driveway is 10 percent.

All driveways should be designed with adequate space for stopping at the roadway entrance, on a slope of not greater than 5 percent. Runoff shall be directed away from the roadway.

~~The spacing between non-agricultural driveways shall be at least 300 feet.~~

b. Number.

The number of driveways to serve an individual residential or commercial property fronting on a Town road shall be one (1) [per lot or parcel per road frontage \(e.g., corner lots/parcels may have one driveway to each abutting Town road\)](#), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the Town roads. Additional driveways may be approved for commercial and other use areas where deemed reasonable. [These standards to not apply to agricultural driveways.](#)

c. Island Area.

The island area in the Town road right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a

Resolution No. 10-2022-01

TOWN OF NEPEUSKUN
WINNEBAGO COUNTY, WISCONSIN

A Resolution adopting text amendments to Section 5.2.3, Section 5.4.5, Section 5.4.6/Exhibit 3, Article 5, Article 6, Section 5.9.3, Section 5.10.8, Section 5.10.21, Section 5.10.23, & Article 15 of Chapter 5, Town Zoning Code; Chapter 11, Special Use Ordinance; and Section B. 1. of Chapter 13, Driveway and Culvert Ordinance, of the Town of Nepeuskun Municipal Code

WHEREAS, the Town of Nepeuskun Plan Commission has deemed it is in the Town's best interest and that of its citizens to amend the Town of Nepeuskun Municipal Code that would address the needs of the Town of Nepeuskun; and

WHEREAS, the Town of Nepeuskun Plan Commission proposed text amendments to the Town of Nepeuskun Municipal Code; and

WHEREAS, the Town of Nepeuskun Plan Commission held a Public Hearing on the proposed text amendments to the Town of Nepeuskun Municipal Code on October 10, 2022 for the purpose of collecting comments and public input; and

WHEREAS, the Town of Nepeuskun Plan Commission following the October 10, 2022 Public Hearing on the proposed text amendments to the Town of Nepeuskun Municipal Code, recommended adoption of the text amendments by the Town Board with the following minor revision:

- The proposed accessory building/structure footprint area measurement in Section 5.9.3 should be changed from 600 square feet to 1,500 square feet.

NOW, THEREFORE BE IT RESOLVED, the Town of Nepeuskun Town Board adopts the text amendments to the Town of Nepeuskun Municipal Code consistent with the recommendation by the Town of Nepeuskun Plan Commission.

The amended Town of Nepeuskun Municipal Code shall take effect upon passage by the Winnebago County Board of Supervisors and posting (or publication) as required by law.

The amended Town of Nepeuskun Municipal Code is hereby adopted as the general code of ordinances in and for the Town of Nepeuskun, Winnebago County, Wisconsin.

Dated this 17th day of October, 2022.

TOWN OF NEPEUSKUN

By: Kyle Grahn

Kyle Grahn, Town Chairperson

Attest: Rebecca L. Pinnow
Rebecca L. Pinnow (Oct 18, 2022 12:50 CDT)

Rebecca Pinnow, Town Clerk








Resolution NO 10-2022-01

Final Audit Report

2022-10-18

| | |
|-----------------|---|
| Created: | 2022-10-18 |
| By: | Kyle Grahn (kylegrahn@caravelconsultingllc.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAbwolxakVfXg2wGU4HHey-4nQQwU7jyq5 |

"Resolution NO 10-2022-01" History

-  Document created by Kyle Grahn (kylegrahn@caravelconsultingllc.com)
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-  Document e-signed by Kyle Grahn (kylegrahn@caravelconsultingllc.com)
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-  Document emailed to townclerk@townofnepeuskun.gov for signature
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-  Email viewed by townclerk@townofnepeuskun.gov
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-  Signer townclerk@townofnepeuskun.gov entered name at signing as Rebecca L. Pinnow
2022-10-18 - 5:50:11 PM GMT
-  Document e-signed by Rebecca L. Pinnow (townclerk@townofnepeuskun.gov)
Signature Date: 2022-10-18 - 5:50:13 PM GMT - Time Source: server
-  Agreement completed.
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